

AGENDA

Thursday January 24, 2019 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2019-02

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

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

1. Presentation on the Status of the Carli Creek Water Quality Project (Ron Wierenga, Water Environment Services)

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

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

A. Health, Housing & Human Services

1. Approval to Apply for a Continuation Grant from Oregon Department of Transportation 5310 Enhanced Mobility Funds through Tri-County Metropolitan Transportation District of Oregon (TriMet) for Preventative Maintenance, Bus Purchase and Operations Funding for Mt Hood Express, Transportation Reaching People and Transportation Services to Boring – *Social Services*
2. Approval of Amendment No. 15 for the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority, for Operation as the Local Public Health Authority for Clackamas County – *Public Health*
3. Approval of a Professional Services Contract with Cascadia Behavioral Healthcare, Inc. to Provide Peer Support Services - *Procurement*
4. Approval of a Professional, Technical, and Personal Services Contract with the Mental Health Association of Oregon for Peer Support Services for Opioid Overdose Survivors - *Procurement*
5. Approval of a Professional Services Contract with Oregon Family Support Network for Peer Delivered Services for Families in Crisis in Emergency Departments - *Procurement*
6. Approval of a Professional Services Contract with the Living Room for Youth/Young Adult Peer Support Services - *Procurement*

B. Department of Transportation & Development

1. Approval of an Intergovernmental Agreement with the City of Canby to Transfer Permitting Authority and Maintenance Responsibility for a Portion of Township Road (County Road No 47, DTD No 31021) to the City of Canby
2. Board Order No. _____ Adopting the Vacation of a Portion of Nixon Avenue
3. Board Order No. _____ Adopting the Vacation of a Non-Maintained Local Access Road
4. Approval of a Supplemental Project Agreement No. 32756 with Oregon Department of Transportation for the S. Ivy Street (Canby) Project
5. Approval of an Intergovernmental Agreement with the City of Canby Related to the South Ivy Street Sidewalk Improvement Project
6. Approval of Contract with Bell & Associates Inc. to Provide Solid Waste Annual Financial Review Services - *Procurement*

C. Technology Services

1. Approval for a Service Level Agreement Amendment No. 1 between Clackamas Broadband eXchange and the City of Wilsonville for Exchanging Dark Fiber Connections

IV. BOARD OF HEALTH

1. Resolution No. _____ Supporting a Clackamas County Countywide Tobacco Retail License – *H3S, Pubic Health*

V. DEVELOPMENT AGENCY

1. Approval of the Second Amendment to Disposition Agreement with Bottling Group, LLC

VI. COUNTY ADMINISTRATOR UPDATE

VII. COMMISSIONERS COMMUNICATION

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



Gregory L. Geist
Director

January 24, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Presentation on the Status of the Carli Creek Water Quality Project

Purpose/Outcomes	Inform the Commissioners and public about the status of the Carli Creek Water Quality Project
Fiscal Impact	N/A
Funding Source	N/A
Duration	N/A
Previous Action	N/A
Strategic Plan Alliance	Honor, Utilize, Promote and Invest in our Natural Resources
Contact Person	Ron Wierenga, Environmental Services Manager, 503-742-4581

BACKGROUND

Water Environment Services recently completed major construction activity at the Carli Creek Water Quality Wetland in the Clackamas Industrial Area. Planting at the site continues, with the remaining trees and shrubs being installed over the next few months. The wetland came online in mid-December when runoff was first directed to the project site, culminating nearly seven years of hard work by staff and project partners. The wetland area will improve water quality in Carli Creek and the Clackamas River.

Water Environment Services, in partnership with the County's Public and Government Affairs team, recently produced a video highlighting the project. Staff will present the video (4.26 min.) to the Board of County Commissioners during the update.

An event celebrating the project's completion is being planned for March 22, 2019, on World Water Day. This serves as a reminder of the significance of fresh water and also promotes sustainability for fresh water resources management. It's a day to celebrate, and also to reflect on how we manage water in the future. Staff will provide formal

invitations for the Commissioners to participate in the celebration, along with our project partners.

RECOMMENDATION

N/A

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Greg Geist". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Greg Geist, Director
Water Environment Services Director

COPY

January 24, 2019

Board of Commissioners
 Clackamas County

Members of the Board:

Approval to Apply for a Continuation Grant from Oregon Department of Transportation 5310 Enhanced Mobility Funds through Tri-County Metropolitan Transportation District of Oregon (TriMet) for Preventative Maintenance, Bus Purchase and Operations Funding for Mt Hood Express, Transportation Reaching People and Transportation Services to Boring

Purpose/Outcomes	Agreement with Oregon Department of Transportation Rail and Public Transit Division (ODOT) to fund preventative maintenance and operations for the Mt Hood Express bus service, preventative maintenance and a replacement vehicle for the Transportation Reaching People Program and purchased services providing elderly and disabled transportation to the Boring area.
Dollar Amount and Fiscal Impact	The maximum agreement is \$275,514. These funds will be used to pay for preventative maintenance and operations for the Mt Hood Express buses, preventative maintenance and a replacement bus purchase for the Transportation Reaching People program, and to provide community-based elderly and disabled transportation services in the Boring area coordinated by the Sandy Senior and Community Center. Match funds will be provided by Special Transportation Formula funds and a public-private partnership with businesses in the Mt. Hood area.
Funding Source	Federal Transit Administration 5310 Elderly and Disabled Transportation grant. No county general funds are involved.
Duration	Effective July 1, 2019 and terminates on June 30, 2021
Previous Board Action	None
Strategic Plan Alignment	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing transportation needs for seniors, persons with disabilities and low income job seekers.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	

BACKGROUND:

The Social Services Division of the Department of Health, Housing and Human Services requests approval to apply to Oregon Department of Transportation Rail and Public Transit Division to fund preventative maintenance and operations for the Mt Hood Express buses. The Mt Hood Express provides public transit bus service between the City of Sandy, Government Camp and Timberline, along with other locations in the Mt. Hood area, increasing access to medical and social services to elderly and disabled residents. Clackamas County Social Services has received 5310 rural transit funds since it took over operating the Mountain Express/Mt Hood Express bus service in 2007. Match is provided through private contributions.

Preventative maintenance funds are also sought for vehicles operated by the Transportation Reaching People program. Match is provided with Special Transportation Funds. Funds are also being requested to replace an aging bus used to provide rides to seniors and persons with disabilities.

This agreement also funds the continuation of the community-based elderly and disabled transportation services in the Boring area. These services will be coordinated by the Sandy Senior and Community Center. The county has received funding for this service since 2013. Match will continue to be provided with Special Transportation Funds.

RECOMMENDATION:

We recommend the approval to apply for this grant and further recommend the acceptance of the award if funded, and that Richard Swift be authorized to sign all documents necessary to accomplish this action on behalf of the Board of Commissioners.

Respectfully submitted



Richard Swift, Director
Health, Housing and Human Services

Grant Application Lifecycle Form

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

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

** CONCEPTION **

Note: The processes outlined in this form are not applicable to disaster recovery grants.

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

Lead Department: H3S/SSD Application for: Subrecipient funds Direct Grant
Grant Renewal? Yes No
If renewal, complete sections 1, 2, & 4 only

Name of Funding Opportunity: FY20-21 STF Formula and Section 5310 Funding Applications
Funding Source: Federal State Local: _____
Requestor Information (Name of staff person initiating form): Stefanie Reid-Danielson
Requestor Contact Information: 503-655-8330 stefanierei@clackamas.us
Department Fiscal Representative: Teresa Christopherson
Program Name or Number (please specify): Various (05339, 05353)
Brief Description of Project:

Continuation grant for Oregon Department of Transportation 5310 funds for vehicle maintenance and operations for MHX, vehicle maintenance and purchase of a replacement vehicle for TRP and rides for seniors and persons with disabilities residing in the Boring area (purchased service)

Name of Funding (Granting) Agency: ODOT

Agency's Web Address for Grant Guidelines and Contact Information:

<https://trimet.org/meetings/stfac/grants.htm>

OR

Application Packet Attached: Yes No

Completed By: Stefanie Reid-Danielson Date: 1/8/2019

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

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

Competitive Grant Non-Competing Grant Other Funding Agency Award Notification Date: 12/5/2018
CFDA(s), if applicable: 20.513 (5310 funds only)
Announcement Date: 12/5/2018 Announcement/Opportunity #: N/A
Grant Category/Title: 5310 Transportation Max Award Value: \$275,514
Allows Indirect/Rate: _____ Match Requirement: Yes
Application Deadline: 1/11/2019 Other Deadlines: _____
Grant Start Date: 7/1/2020 Other Deadline Description: _____
Grant End Date: 6/30/2022
Completed By: Stefanie Reid-Danielson Program Income Requirement: None
Pre-Application Meeting Schedule: N/A

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 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 grant? How will we meet these objectives?

4. Does the grant proposal 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 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, this grant would 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?

2. How will grant 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 grant?

Fiscal

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

2. Are other revenue sources required? Have they already been secured?

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 cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

Program Approval:

Teresa Christopherson

1/8/2019



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)		
Brenda Durbin	1-8-19	[Signature]
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR (or designee, if applicable)		
Richard Swift	1/10/19	[Signature]
Name (Typed/Printed)	Date	Signature

FINANCE GRANT MANAGER (or designee, if applicable; FOR FEDERALLY-FUNDED APPLICATIONS ONLY)		
[Signature]	1-9-19	Jeff Mudge
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.

January 24, 2019

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Amendment #15 for the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority, for Operation as the Local Public Health Authority for Clackamas County

Purpose/Outcomes	Amendment #15 makes the following changes: Increases PE12 – Public Health Emergency Preparedness and Response (PHEP) by \$16,567 and adds the federal award information, PE44-01 – School based Health Center Base – Increased by \$56,000 PE44-02 – School based Health Center – Mental Health Expansion. rolls over FY18 and increases by \$46,500 to FY19
Dollar Amount and Fiscal Impact	Amendment #15 increases this Agreement by \$119,067. for a new Contract maximum value of \$6,513,463.00.
Funding Source	State of Oregon, Oregon Health Authority. No County General Funds are involved.
Duration	Effective upon signature and terminates on June 30, 2019
Strategic Plan Alignment	1. Improved community safety and health 2. Ensure safe, health and secure communities
Previous Board Action	The Board previously reviewed and approved this agreement on October 26, 2017 Agenda item 102617-A6, June 22, 2017, Agenda item 062217-A3 and October 5, 2017, Agenda item 100517-A2, April 12, 2018 Agenda item 041218-A2, June 7, 2018, Agenda item 060718-A11, June 14, 2018, Agenda item 061418-A3, September 27, 2018, 092718-A5, November 8, 2018, Agenda item 110818- A-1, November 29, 2018 – Agenda Item 112918-A1
Contact Person	Dawn Emerick, Public Health Director – 503-655-8479
Contract No.	8327-15

BACKGROUND:

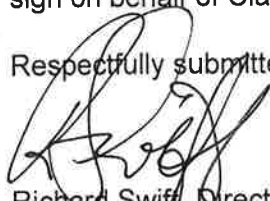
The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Amendment #15 for the Intergovernmental Agreement with State of Oregon, Oregon Health Authority. Amendment #15 increases this Agreement by \$119,067. for a new Contract maximum value of \$6,513,463.

This Amendment is effective upon signature and continues through June 30, 2019. This contract has been reviewed by County Counsel on November 05, 2018.

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Swift', written over a faint circular stamp or watermark.

Richard Swift, Director
Health, Housing, and Human Services

Agreement #154103



**FIFTEENTH AMENDMENT TO OREGON HEALTH AUTHORITY
2017-2019 INTERGOVERNMENTAL AGREEMENT FOR THE
FINANCING OF PUBLIC HEALTH SERVICES**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Fifteenth Amendment to Oregon Health Authority 2017-2019 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2017, and restated July 1, 2018 (as amended the "Agreement"), is between the State of Oregon acting by and through its Oregon Health Authority ("OHA") and Clackamas County, acting by and through its Public Health Department ("LPHA"), the entity designated, pursuant to ORS 431.003, as the Local Public Health Authority for Clackamas County.

RECITALS

WHEREAS, OHA and LPHA wish to modify the Fiscal Year 2018 (FY18) Financial Assistance Award set forth in Exhibit C of the Agreement;

WHEREAS, OHA and LPHA wish to e.g. modify the Fiscal Year 2019 (FY19) Financial Assistance Award set forth in Exhibit C of the Agreement;

WHEREAS, OHA and LPHA wish to e.g. modify the Exhibit J information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200;

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows

AGREEMENT

1. Section 1 of Exhibit C entitled "Financial Assistance Award" of the Agreement for FY18 is hereby superseded and replaced in its entirety by Attachment A attached hereto and incorporated herein by this reference. Attachment A must be read in conjunction with Section 3 of Exhibit C as restated July 1, 2018, entitled "Explanation of Financial Assistance Award" of the Agreement.
2. Section 1 of Exhibit C entitled "Financial Assistance Award" of the Agreement for FY19 is hereby superseded and replaced in its entirety by Attachment B attached hereto and incorporated herein by this reference. Attachment B must be read in conjunction with Section 3 of Exhibit C as restated July 1, 2018, entitled "Explanation of Financial Assistance Award" of the Agreement.
3. Exhibit J "Information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200" is amended to add to the federal award information datasheet as set forth in Attachment C, attached hereto and incorporated herein by this reference.
4. LPHA represents and warrants to OHA that the representations and warranties of LPHA set forth in Section 2 of Exhibit E of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
5. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.

OHA - 2017-2019 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES

- 6. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
- 7. The parties expressly ratify the Agreement as herein amended.
- 8. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.
- 9. This Amendment becomes effective on the date of the last signature below.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below their respective signatures.

10. Signatures.

By: _____
Name: /for/ Lillian Shirley, BSN, MPH, MPA
Title: Public Health Director
Date: _____

CLACKAMAS COUNTY LOCAL PUBLIC HEALTH AUTHORITY

By: _____
Name: Richard Swift
Title: Director, Healthy Housing and Human Services
Date: _____

DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY

Agreement form group-approved by D. Kevin Carlson, Assistant Attorney General, Tax and Finance Section, General Counsel Division, Oregon Department of Justice by email on August 16, 2018, copy of email approval in Agreement file.

REVIEWED BY OHA PUBLIC HEALTH ADMINISTRATION

By: _____
Name: Derrick Clark (or designee)
Title: Program Support Manager
Date: _____

**Attachment A
Financial Assistance Award (FY18)**

State of Oregon Oregon Health Authority Public Health Division			Page 1 of 3
1) Grantee Name: Clackamas County Public Health		2) Issue Date December 11th, 2018	This Action AMENDMENT FY2018
Street: 2051 Kaen Road City: Oregon City State: OR Zip Code: 97045		3) Award Period From July 1, 2017 Through June 30, 2018	
4) OHA Public Health Funds Approved			
Program	Previous Award	Increase/ (Decrease)	Grant Award
PE 01 State Support for Public Health	484,952	0	484,952
PE 03 TB Case Management	16,746	0	16,746 (i,j)
PE 04 Sustainable Relationships for Community Health	36,100	0	36,100 (n)
PE 07 HIV Prevention Services	117,547	0	117,547 (m,o)
PE 12 Public Health Emergency Preparedness	164,085	0	164,085 (d)
PE 13 Tobacco Prevention & Education	228,630	0	228,630
PE 27 Oregon Prescription Drug Overdose Prevention	111,416	0	111,416 (g,s)
PE 40 Women, Infants and Children FAMILY HEALTH SERVICES	878,206	0	878,206 (b,c,p)
PE 40 WIC -- PEER Counseling FAMILY HEALTH SERVICES	69,411	0	69,411 (e,f)
PE 41 Reproductive Health Program FAMILY HEALTH SERVICES	34,555	0	34,555 (a)
PE 42 MCH/Child & Adolescent Health -- General Fund FAMILY HEALTH SERVICES	21,403	0	21,403 (k)
PE 42 MCH-TitleV -- Child & Adolescent Health FAMILY HEALTH SERVICES	36,372	0	36,372 (k,l)
5) FOOTNOTES:			
a) \$34,555 Award amount is estimated for FY2018. OHA/PHD has not received the Notice of Grant Award for the title X funding. Adjustment might be needed once the Notice of Award is received. b) The July-September 2017 grant is \$245,108 ; \$49,022 must be expended for Nutrition Education. \$11,040 must be expended for Breastfeeding Promotion. c) The October-June FY2018 grant is \$633,097 ; \$126,619 must be expended for Nutrition Education. \$33,119 must be expended for Breastfeeding Promotion. d) \$164,085 Award amount is estimated for FY2018. OHA/PHD has not received the Notice of Award for funding. Adjustments might be needed once Notice of Award has been received by OHA/PHD. e) \$17,353 is the July 1st -- September 30th of 2017 funding to local agencies. f) \$52,058 is the October 1st, 2017 -- June 30th 2018 funding to local agencies. g) \$95,500 is for Oregon State Targeted Response to the Opioid Crisis (OSTR) work for the period of September 1st, 2017 to April 30th, 2018.			
6) Capital Outlay Requested in This Action:			
Prior approval is required for Capital Outlay. Capital Outlay is defined as an expenditure for equipment with a purchase price in excess of \$5,000 and a life expectancy greater than one year.			
PROGRAM	ITEM DESCRIPTION	COST	PROG. APPROV

State of Oregon Oregon Health Authority Public Health Division		Page 2 of 3	
1) Grantee Name: Clackamas County Public Health		2) Issue Date December 11th, 2018	This Action AMENDMENT FY2018
Street: 2051 Kaen Road City: Oregon City State: OR Zip Code: 97045		3) Award Period From July 1, 2017 Through June 30, 2018	
4) OHA Public Health Funds Approved			
Program	Previous Award	Increase/ (Decrease)	Grant Award
PE 42 MCH-TitleV -- Flexible Funds FAMILY HEALTH SERVICES	84,868	0	84,868 (k,l)
PE 42 MCH/Perinatal Health -- General Fund FAMILY HEALTH SERVICES	11,407	0	11,407 (k)
PE 42 Babies First FAMILY HEALTH SERVICES	36,529	0	36,529
PE 42 MCH Title V -- Oregon MothersCare FAMILY HEALTH SERVICES	12,991	0	12,991 (k,l)
PE 43 Immunization Special Payments	90,277	0	90,277
PE 44 School Based Health Centers FAMILY HEALTH SERVICES	224,000	0	224,000 (q)
PE 44 School Based Health Centers - Mental Health Expa FAMILY HEALTH SERVICES	336,700	-46,500	290,200
PE 50 Safe Drinking Water Program	147,476	0	147,476 (h,r)
5) FOOTNOTES:			
h) \$147,476 Award amount is estimated for Fiscal Year 2018. OHA/PHD has not yet received the Notice of Award for the funding. Adjustments might be needed once the Notice of Award is received by OHA/PHD.			
i) \$3,276 Award amount for the period 7/1/2017 - 12/31/17 must be spent by 12/31/2017.			
j) \$3,276 Award amount for period from 1/1/2018 - 6/30/2018 and must be spent by 6/30/2018.			
k) Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid).			
l) Funds for the MCH Title V programs for the period of 7/1/17-9/30/17 must be spent by 9/30/17.			
m) \$32,855 Award is for the period from 7/1/2017 to 12/31/17 and must be spent by 12/31/2017.			
n) \$36,100 is rollover of unspent funds from FY2017			
o) \$41,907 Award is for the period from 1/1/18 to 6/30/18 and must be spent by 6/30/18.			
6) Capital Outlay Requested in This Action:			
Prior approval is required for Capital Outlay. Capital Outlay is defined as an expenditure for equipment with a purchase price in excess of \$5,000 and a life expectancy greater than one year.			
PROGRAM	ITEM DESCRIPTION	COST	PROG. APPROV

State of Oregon Oregon Health Authority Public Health Division		Page 3 of 3	
1) Grantee Name: Clackamas County Public Health Street: 2051 Kaen Road City: Oregon City State: OR Zip Code: 97045		2) Issue Date December 11th, 2018	This Action AMENDMENT FY2018
		3) Award Period From July 1, 2017 Through June 30, 2018	
4) OHA Public Health Funds Approved			
Program	Previous Award	Increase/ (Decrease)	Grant Award
TOTAL	3,143,671	-46,500	3,097,171
5) FOOTNOTES: p) The July-September portion must be spent by September 30th, 2017. \$33,572 is the year-end one-time funding adjustment. \$504 is the second fresh fruit and veggies grant adjustment. q) Change in School Based Health Clinic funding formula for those counties with more than one certified School Based Health Clinic. Increased to \$56,000/year for each certified School Based Health Clinic in the County. r) Funds provided under this Agreement are intended to enable Local Public Health Authorities to assume primary responsibility for the quality and safety of drinking water provided by most of the public water systems located within the Local public Health Authority's jurisdiction, and may only be used in accordance with and subject to the requirements and limitations set forth below, to deliver the Safe Drinking Water services described in the Program Element Description. s) \$15,916 To Be Spent By 6/30/18 (which is 2/12 of \$95,500 Year 2 OSTR Funding available 5/1/18 through 4/30/19)			
6) Capital Outlay Requested in This Action: Prior approval is required for Capital Outlay. Capital Outlay is defined as an expenditure for equipment with a purchase price in excess of \$5,000 and a life expectancy greater than one year.			
PROGRAM	ITEM DESCRIPTION	COST	PROG. APPROV

**Attachment B
Financial Assistance Award (FY19)**

State of Oregon Oregon Health Authority Public Health Division				Page 1 of 3
1) Grantee Name: Clackamas County Public Health		2) Issue Date December 17, 2018	This Action AMENDMENT FY 2019	
Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045		3) Award Period From July 1, 2018 Through June 30, 2019		
4) OHA Public Health Funds Approved				
Program		Award Balance	Increase/ (Decrease)	New Award Bal
PE01	State Support for Public Health	486,823		486,823
PE03	Tuberculosis Case Management	0		0
PE07	HIV Prevention Services	130,555		130,555
PE12	Public Health Emergency Preparedness and Response (PHEP)	164,085	16,567	180,652
PE13	Tobacco Prevention and Education Prgram (TPEP)	227,587		227,587
PE13-02	Tobacco Prevention and Education (TPEP) - SPArC	299,211		299,211
PE27-02	PDOP - Opiod State Targeted Response (OSTR)	79,583		79,583
PE40-01	WIC NSA: July - September	200,074		200,074
PE40-02	WIC NSA: October - June	600,221		600,221
PE40-03	BFPC: July - September	17,353		17,353
PE40-04	BFPC: October - June	52,058		52,058
PE40-05	Farmer's Market	3,769		3,769
PE42-01	MCAH Title V CAH	36,671		36,671
PE42-02	MCAH Title V Flexible Funds	85,564		85,564
PE42-03	MCAH Perinatal General Funds & Title XIX	11,490		11,490
PE42-04	MCAH Babies First! General Funds	36,708		36,708
PE42-05	MCAH Oregon Mothers Care Title V	8,834		8,834
PE42-06	MCAH General Funds & Title XIX	21,556		21,556

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of a Professional Services Contract with
 Cascadia Behavioral Healthcare, Inc. to Provide Peer Support Services

Purpose/Outcomes	Provides peer support service to individuals residing at the Villebois Housing sites (including Renaissance Court Apartments, Rain Garden and The Charleston Apartments) in Wilsonville, Oregon.
Dollar Amount and Fiscal Impact	Contract maximum payment is \$699,880.
Funding Source	No County General Funds involved State of Oregon, Community Mental Health Program (CMHP) funds
Duration	Effective January 1, 2019 through June 30, 2020, with an option to extend through June 30, 2022.
Previous Board Action	NA
Strategic Plan Alignment	1. Increase self-sufficiency for our clients. 2. Ensure safe, healthy and secure communities.
Contact Person	Mary Rumbaugh, Director – Behavioral Health Division (503) 742-5305
Contract No.	#9012

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of Professional Services Contract #9012 with Cascadia Behavioral Healthcare, Inc. On September 12, 2018, a Request for Proposals (RFP) was issued for eight peer-delivered services programs. The RFP closed October 24, 2018, and Cascadia was selected by the review committee to be awarded a contract to provide peer support service to individuals residing at the Villebois Housing sites (including Renaissance Court Apartments, Rain Garden and The Charleston Apartments) in Wilsonville, Oregon.

This contract, effective January 1, 2019 through June 30, 2020, with an option to extend to June 30, 2022, has a maximum value of \$699,880. County Counsel reviewed and approved the contract.

RECOMMENDATION:

Staff recommends Board approval of this contract and authorization for Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director
 Health, Housing & Human Services Department

Placed on the Agenda of _____ by the Procurement Division

Healthy Families. Strong Communities.



CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal Services Contract (this "Contract") is entered into between Cascadia Behavioral Healthcare, Inc. ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of its Health Housing and Human Services Department ("H3S").

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective on January 1, 2019. Unless earlier terminated or extended, this Contract shall expire on June 30, 2020. 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. This Contract may be renewed for an additional two (2) year term upon the written agreement of both parties to this Contract.

2. Scope of Work. This Contract covers the Scope of Work described as Project 5: Adult Peer Delivered Services - Villebois Community as set forth in the RFP #2018-45 Behavioral Health Peer Delivered Services including all addenda thereto ("RFP"), attached and hereby incorporated by reference as Attachment "A." This contract is funded in whole or in part by state or federal funds. As such, this Contract is subject to the additional terms and conditions described in Exhibits A, C, E, F, H, L, M, and N.

3. Consideration. The County agrees to pay Contractor for accomplishing the Work required by this Contract, from available and authorized funds, a sum not to exceed two hundred ninety-three thousand three hundred eighty-four dollars (\$293,384.00) for the initial term of this Contract, which expires on June 30, 2020, and the total Contract value including the two year renewal term shall not exceed six hundred ninety-nine thousand eight hundred eighty dollars (\$699,880.00). If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Travel and Other Expense. Authorized: [] Yes [X] 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: http://www.clackamas.us/bids/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 including Exhibits A, C, E, F, H, L, M, N, Attachment "A", and the Contractor's Proposal attached and hereby incorporated by reference as Attachment "B". Work shall be performed in accordance with a schedule approved by the County.

5. Contractor Data.

Address: PO Box 8459, Portland, OR 97207

Contractor Contract Administrator: Mike Nomina

Phone No.: 971-302-6806

Email: mike.nomina@cascadiabhc.org

MWESB Certification: [] DBE # [] MBE # [] WBE # [] ESB #

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 could subject Contractor to backup withholding.

ARTICLE II.

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and 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. Such books and records shall be maintained by Contractor for a minimum of three (3) 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 FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County’s reasonable administrative discretion, to continue to make payments under this Contract.
- 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 federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor’s surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor’s employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee’s wages to provide such services.

Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by the applicable State or Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.

- 5. EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

- 6. GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon 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.
- 7. HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- 8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** 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.
- 9. 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; (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; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Attachment C)
- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit C**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), 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. 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.

- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us, or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.
- 13. 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.
- 14. 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) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. 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, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. 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.
- 17. 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. 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, Paragraphs 1, 8, 13, 15, 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.
- 18. 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.

19. TAX COMPLIANCE CERTIFICATION. Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

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

20. TERMINATIONS. This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the Work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

21. REMEDIES. (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work

multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, 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.

- 22. 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.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. 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.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, 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.
- 26. 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.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.

(C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

(D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

28. CONFIDENTIALITY. Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor 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 purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including

any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by its breach of its data security or confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

29. CRIMINAL BACKGROUND CHECK REQUIREMENTS. Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.

30. Further Assurances. Contractor agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to, executing all additional documentation necessary for County to comply with applicable State or Federal funding requirements.

31. 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.

**ATTACHMENT A
PERSONAL/PROFESSIONAL SERVICES CONTRACT**

SCOPE OF WORK

Contractor shall provide Behavioral Health Peer Delivered Services (“Work”). Work is described in the Request for Proposals #2018-45 Behavioral Health Peer Delivered Services issued September 12, 2018 (“RFP”) including all addenda thereto, included in this Attachment “A.” Insofar as the RFP includes Project Specific Scope and Expectations as stated therein, this Contract covers Project 5: Adult Peer Delivered Services – Villebois Community. Work is further described in Vendor’s Response to RFP, hereby attached and incorporated by reference as Attachment “B.”

The County Contract administrator for this Contract is: Ally Linfoot

INVOICES AND PAYMENTS

- a. Consideration Rates – Fixed Fee basis of \$16,299.11 per month for this Contract’s eighteen (“18”) month initial term. Should a renewal option be exercised, the consideration rate shall be \$16,937.33 per month for the resulting twenty-four (“24”) month term.
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462. Payment for all Work performed under this Contract, including all optional renewals, shall not exceed the total maximum sum of **\$699,880.00**. Invoices shall be submitted to: Ally Linfoot, either by mail at 150 Beaver Creek RD, Oregon City OR, 97045 or email at ALinfoot@co.clackamas.or.us.
- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made 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 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. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. 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 billings shall also include the total amount billed to date by Contractor prior to the current invoice.



REQUEST FOR PROPOSALS #2018-45

FOR

BEHAVIORAL HEALTH PEER DELIVERED SERVICES

BOARD OF COUNTY COMMISSIONERS

JIM BERNARD, Chair
SONYA FISCHER, Commissioner
KEN HUMBERSTON, Commissioner
PAUL SAVAS, Commissioner
MARTHA SCHRADER, Commissioner

Donald Krupp
County Administrator

George Marlton
Procurement Division Director

Peter Madaus
Analyst

PROPOSAL CLOSING DATE, TIME AND LOCATION

DATE: September 12, 2018

TIME: 2:00 PM, Pacific Time

PLACE: Clackamas County Procurement Division
Clackamas County Public Services Building
2051 Kaen Road, Oregon City, OR 97045

SCHEDULE

Request for Proposals Issued.....	September 12, 2018
Protest of Specifications Deadline.....	September 19, 2018, 5:00 PM, Pacific Time
Deadline to Submit Clarifying Questions.....	October 3, 2018, 5:00 PM, Pacific Time
Request for Proposals Closing Date and Time.....	October 24, 2018, 2:00 PM, Pacific Time
Deadline to Submit Protest of Award.....	Seven (7) days from the Intent to Award
Anticipated Contract Start Date.....	January 1, 2019

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**SECTION 1
NOTICE OF REQUEST FOR PROPOSALS (RFP)**

Notice is hereby given that Clackamas County (“County”) through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, October 24, 2018** (“Closing”), to provide **Behavioral Health Peer Delivered Services**. No Proposals will be received or considered after that time.

As a result of this RFP, the County intends to enter into contracts for the eight (8) Behavioral Health Peer Delivered Services projects (“Project”) listed below in “Table 1.0” and further specified in “Section 3” of this RFP:

Table 1.0	
<i>Project</i>	<i>Not to Exceed 3.5 Year Budget</i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	\$142,000.00
Project 2: Adult Peer Delivered Services – Jail Support	\$426,000.00
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	\$532,500.00
Project 4: Adult Peer Delivered Services – Community Education	\$213,000.00
Project 5: Adult Peer Delivered Services – Villebois Community	\$710,000.00
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	\$439,500.00
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	\$342,500.00
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	\$287,500.00
*The “Not to Exceed 3.5 Year Budgets” amounts shall be included in proposal responses and shall not be construed to guarantee or represent the total contract value for any contracts that might result from this RFP.	

Each proposer entity shall only submit one proposal package in response to this RFP. This RFP is structured to allow proposer entities to include multiple Projects in one proposal package should they choose to do so. The resulting contract(s) from this RFP shall include a one and a half (1.5) year initial term with one (1) mutual renewal option for two (2) additional years.

Proposal packets are available from 7:00 AM to 6:00 PM Monday through Thursday at Clackamas County Procurement Division, Clackamas County Public Services Building, 2051 Kaen Road, Oregon City, OR 97045, telephone (503) 742-5444 or may be obtained at <http://www.clackamas.us/bids/>. Sealed Proposals are to be sent to Clackamas County Procurement Services – Attention George Marlton, Director at the above Kaen Road address. Sealed Proposals may be emailed to procurement@clackamas.us or sent to Clackamas County at the above Kaen Road address.

Contact Information

All communications with the County regarding this RFP shall only be directed to **Peter Madaus**, pmadaus@co.clackamas.or.us, (503) 742-5451.

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 bids from Minority, Women, 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. County will provide reasonable notice of its decision to all Proposers that have provided an address to the Procurement Division for this procurement. 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 the Bids and Contract Information page at <http://www.clackamas.us/bids/> for any published Addenda or response to clarifying questions.

2.5 Submission of Proposals: All Proposals must be submitted in a sealed envelope bearing on the outside, the name and address of the Proposer, the Project title, and Closing date/time. 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(s) in “Notice of Intent to Award” letter(s). Identification of the apparent successful Proposer(s) is procedural only and creates no right of the named Proposer(s) to award of the contract. Competing Proposer(s) will be notified in writing of the selection of the apparent successful Proposer(s) and shall be given seven (7) calendar days from the date on the “Notice of Intent to Award” letter 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. Written protests shall specify the Project(s) listed under Section 3 of this RFP to which the protest applies. 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(s) and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer(s); OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer(s) as nonresponsive, if such Proposer(s) is unable to demonstrate that its Proposal(s) complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name new apparent successful Proposer(s); OR
- c. reject all Proposals and cancel the procurement in whole, or with respect to any single Project or group of Projects named under Section 3 of this RFP.

2.7 Acceptance of Contractual Requirements: Failure of the selected Proposer(s) 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 192.501(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 192.501(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 192.500(1). 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(s) 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(s) are 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 Best and Final Offer: County may request best and final offers from those Proposers determined by County to be reasonably viable for contract award. However, County reserves the right to award a contract on the basis of initial Proposal received. Therefore, each Proposal should contain the Proposer's best terms from a price and technical standpoint. Following evaluation of the best and final offers, County may select for final contract negotiations/execution the offers that are most advantageous to County, considering cost and the evaluation criteria in this RFP.

2.28 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.

2.29 Intergovernmental Cooperative Procurement Statement: Pursuant to ORS 279A and LCRB, other public agencies shall have the ability to purchase the awarded goods and services from the awarded contractor(s) under terms and conditions of the resultant contract. Any such purchases shall be between the contractor and the participating public agency and shall not impact the contractor's obligation to County. Any estimated purchase volumes listed herein do not include other public agencies and County makes no guarantee as to their participation. Any Proposer, by written notification included with their

Proposal, may decline to extend the prices and terms of this solicitation to any and/or all other public agencies. County grants to any and all public serving governmental agencies, authorization to purchase equivalent services or products described herein at the same submitted unit bid price, but only with the consent of the contractor awarded the contract by the County.

**SECTION 3
SCOPE OF WORK**

3.1. INTRODUCTION

Clackamas County’s Behavioral Health Division (“Behavioral Health”) is seeking qualified programs and organizations to provide peer delivered support services in the areas of mental health and substance use. Services are to be provided within Clackamas County (“County”) and serving adults, children, youth, and families residing in the County or individuals moving to the County upon release from a correctional facility, juvenile detention facility, psychiatric or substance use treatment in-patient facility, or hospital. The County intends to enter into multiple contracts as a result of this solicitation.

In submitting a response to this RFP, the proposer certifies that paid staff providing services under any contract issued will be paid a living wage and receive appropriate benefits.

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

Since 2010, Behavioral Health has consistently worked to create a comprehensive Peer Delivered Services System of Care. We support a system of care that promotes a family’s and individual’s resiliency and recovery from mental health and substance use. Behavioral Health believes peer support is a critical element of recovery. Peer Services supports this system by ensuring individuals and families with children are empowered and drive the process of reaching and sustaining recovery, wellness, and resilience while building an inclusive community.

The outcome of this RFP process will be the availability of an array of peer delivered support services reaching a broad population of adults, youth and young adults in transition, family members and caregivers. These services will be provided to individuals and families who may also require support within other systems such as corrections, addictions, juvenile justice, child welfare, and others.

Please read this RFP carefully as Clackamas County seeks to fulfill several lines of peer support services. The Scopes of Work for each peer support service covered under this RFP are individually outlined in this Section. The peer support services are:

Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups
Project 2: Adult Peer Delivered Services – Jail Support
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic
Project 4: Adult Peer Delivered Services – Community Education
Project 5: Adult Peer Delivered Services – Villebois Community
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth
Project 7: Children and Families – Family Navigator / Emergency Room Diversion
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors

Proposers may submit a proposal for one or more of the above Projects. If Proposer submits a proposal for more than one Project, the proposal must be very clear and complete for each Project and follow instructions in Section 5.

3.3. SCOPE AND EXPECTATIONS FOR ALL PROJECTS

3.3.1. STAFF STANDARDS

Contractor shall complete the following for all staff:

- A successful criminal history records check through the State of Oregon Background Check Unit (“BCU”) compliant with ORS Chapter 181 and OAR 407-007-0000 to OAR 407-007-0370.
- Positive clearance through the General Services Administration System for Award Management (“SAM”) at time of hire and monthly thereafter; and
- Positive clearance through the Office of Inspector General’s (“OIG”) List of Excluded Individuals/Entities at time of hire and monthly thereafter.
- Review appropriate education and academic degrees;
- Review licenses or certificates, as required;
- Review relevant work history or qualifications;
- Document and certify that the staff’s education, experience, competence, and supervision are adequate to permit the staff to perform the assigned duties.

In addition, Contractor shall ensure all staff with direct one-on-one contact with the County residents:

- Complete Oregon Health Authority approved training program for Peer Delivered Services and adherence to all requirements in the Traditional Health Worker administrative rules including, OAR 410-180-0300 to OAR 410-180-0380.

County will provide technical assistance to Contractor on exclusion process through SAM and OIG, upon which time, the County will delegate to the Contractor the responsibility of exclusion checks. County may review Contractor’s adherence to exclusion checks during routine contract compliance monitoring.

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

In addition, Contractor shall not permit any person to provide services under this Contract who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101 “Program Integrity – Medicare and State Health Care Programs Subpart B”.

If Contractor is unable to adhere with requirements listed, Contractor shall communicate directly with Clackamas County’s Peer Services Coordinator a plan for meeting contract requirements.

3.3.1. REPORTING REQUIREMENTS

Behavioral Health’s Peer Delivered Services has developed the following general outcome measures that must be reported to the County on a quarterly basis.

Individuals Served:

- Number of individuals served during the reporting period.
- Number of new individuals served during the reporting period.
- Number of individuals who concluded support services during the reporting period.

Experience of Services:

- Does the individual feel they would have returned to a higher level of care or to a corrections setting if not for Peer Delivered Services?
- Does the individual feel their quality of life has improved overall?
- Has there been an increase in natural supports?

Training, Workshops, Support Groups:

- Number of continuing education/training programs or classes attended by Peer Support Specialists during the quarter.
- Number of workshops, support groups, or presentations provided for individuals receiving peer support services.
- Number of outreach activities conducted to inform and engage community partners and potential referral sources about the role of Peer Support Specialists and the Support Services available.

These reporting requirements will be included in any contract awarded. There may be additional reporting requirements dependent on the type of funding available for the contract and the specific type of peer support being provided through the contract. Please review the sample contract and exhibits associated with the program(s) for which you would like to propose to find additional reporting and related requirements.

3.4. PROJECT SPECIFIC SCOPE AND EXPECTATIONS

3.4.1. PROJECT 1: ADULT PEER DELIVERED SERVICES – DUAL DIAGNOSIS SUPPORT GROUPS

Budget:

\$142,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults with mental health and addictions seeking recovery support in a group setting.

Service Components:

Please provide a plan for providing the following services/supports:

- Comprehensive and current referral network with community agencies and system partners through an outreach specialist to promote recovery support groups
- Monthly fellowship meetings for group leaders.
- Maintenance of eight (8) or more chapters/groups that serve a minimum of 750 contacts throughout the duration of the contract.
- Supports/services including a focus on special populations, such as veterans.
- Ongoing outreach that includes dissemination of informational literature about meeting times, locations, and upcoming events.
- Workshops/trainings/support groups that will be available as well as opportunities for leadership development provided through the organization for those individuals being served.

3.4.2. PROJECT 2: ADULT PEER DELIVERED SERVICES – JAIL SUPPORT

Budget:

\$426,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults residing in Clackamas County Jail seeking recovery support for substance use and may also have co-occurring mental health issues.

Service Components:

Please provide a plan for providing the following services/supports:

- Weekly support groups, workshops and/or recovery curriculum within Clackamas County Jail.
- Collaborative work processes with the County services to begin engagement and access services and resources when appropriate.
- Workshops/trainings/support groups that will be available, as well as opportunities for leadership development provided through the organization for those individuals being served once they have been released from jail
- Peer support services within the jail.

Staffing:

- 1.0 FTE for a Lead Peer Recovery Mentor.
- 1.5 FTE Peer Support Specialists (PSS). At least one PSS must be male.

3.4.3. PROJECT 3: ADULT PEER DELIVERED SERVICES – CLACKAMAS COUNTY CRISIS CLINIC

Budget:

\$532,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults with mental health or co-occurring mental health and addiction who are seeking services through the County's crisis mental health walk-in clinic located in Clackamas County, OR.

Service Components:

Please provide a plan for providing the following services/supports:

- Cooperative work processes with the County to promote a recovery oriented support system that focuses on hope, choice, personal responsibility, and self-determination.
- Supports for individuals experiencing:
 - Recurring hospitalizations
 - Frequent police contact
 - New diagnoses
 - Difficulty engaging with natural community supports
- Both 1:1 support and group support.

Staffing:

The peer support team will work in collaboration with service teams located at the County's crisis walk-in clinic. Work will be performed both on site at the crisis clinic and in the community.

- 2 – 0.8 FTE Peer Support Specialists
- 1 – 0.4 FTE Peer Supervisor

3.4.4. PROJECT 4: ADULT PEER DELIVERED SERVICES – COMMUNITY EDUCATION

Budget:

\$213,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Family members, caregivers, and individuals seeking mental health education and group support for themselves and/or their loved ones. Priority for participation and enrollment in programs shall be granted to County residents.

Service Components:

Please provide a plan for providing the following services/supports:

- Family member and caregiver support groups.
- Peer support groups.
- Public education and outreach through curriculum and educational programming.
- Information regarding community resources.
- A variety of peer activities.

3.4.5. PROJECT 5: ADULT PEER DELIVERED SERVICES – VILLEBOIS COMMUNITY

Budget:

\$710,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults living in supportive housing in the Villebois Community at Renaissance Court Apartments, Rain Garden Apartments, and The Charleston Apartments located in Wilsonville, OR.

Service Components:

Please provide a plan for providing the following services/supports:

- 1:1 peer support for residents requesting support.
- Assistance in crisis and eviction prevention.
- Referrals to community resources.
- Coordination and facilitation of various group activities based on input from residents.

Staffing:

- 2 FTE Peer Wellness Specialist

3.4.6. PROJECT 6: TRANSITION AGE YOUTH PEER DELIVERED SERVICES – AFTER SCHOOL DROP IN FOR LGBTQ+ YOUTH

Budget:

\$439,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Provide support services to youth/young adults between the ages of 14-20 years who identify as lesbian, gay, bisexual, transgender, queer, intersex (“LGBTQI”).

Service Components:

Please provide a plan for providing the following services/supports:

- Collaborative work processes with the County to promote a support system that focuses on hope, choice, personal responsibility, and self-determination.
- Support and coordination to high schools and middle schools within the County for the development of Gay Straight Alliances (“GSA”).
- Coordination of an annual GSA summit.
- A minimum of (1) one day per week drop-in programming for LGBTQI youth/young adults.

Additional Questions:

Please describe:

- The process used to develop GSA’s within schools.
- Drop-in programming that will be offered.
- Any activities available to youth/young adults including workshops, trainings, leadership development, and social activities that will be available and provided by the organization.

3.4.7. PROJECT 7: CHILDREN AND FAMILIES – FAMILY NAVIGATOR / EMERGENCY ROOM DIVERSION

Budget:

\$342,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Provide support to families entering the Emergency Department (“ED”) within the County for a child experiencing a mental health crisis.

Service Components:

Please provide a plan for providing the following services/supports:

- Assistance, attendance and/or participation in supportive services for parents/caregivers navigating ED services.
- System navigation services and supports.
- Ongoing local resource information for families to access independently.
- Support of the development of and connection of families to natural supports within their community.
- Family Navigator will be required to collaborate closely with hospital systems and other system partners.

Staffing:

- 1.0 FTE Family Navigator

3.4.8. PROJECT 8: ADULT PEER DELIVERED SERVICES – PEER SUPPORT FOR OPIOID OVERDOSE SURVIVORS

Budget:

\$287,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults having recently survived an opioid overdose that require a response by emergency medical services in the County.

Service Components:

Please provide a plan for providing the following services/supports:

- 1:1 peer support for recent survivors of an opioid overdose who may or may not currently be in recovery
- Referrals to community resources
- “Bridging services” to those wanting to access treatment and other recovery supports
- SUD system navigation supports
- Assistance to individuals in identifying wellness and recovery goals
- Document supports provided to each individual
- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

Staffing:

This position collaborate and works closely with the HOPE Team

(<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center

(<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

3.5. TERM OF CONTRACT:

The term of the contract shall be from the effective date through **June 30, 2020** with the option for one (1) additional two (2) year renewal thereafter subject to the mutual agreement of the parties.

Throughout the term of the resulting contracts, the funding sources for the Project may increase or decrease. As applicable to each Project, the County reserves the right to issue amendments to the resulting contracts and either increase or decrease the budget and thereby adjust the service level accordingly. Any such decrease or increase shall also take into account the need for services, performance under the contract, and other factors related to the County’s best interest.

The fees proposed shall be fixed for the initial term of the contract (through June 30, 2020). For the renewal discussions, the County may consider a budgetary increase limited to the percentage reflected by the latest measurement of the Consumer Price Index, West Region (<https://www.bls.gov/regions/west/home.htm>). The County’s budgetary increase considerations may include factors such as availability of funding, the County’s best interest, and other factors as determined by the County.

3.6. 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 Professional Services Contract for this RFP can be found at <http://www.clackamas.us/bids/terms.html>.

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

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

- Article I, Paragraph 4 – Travel and Other Expense is Authorized
- Article II, Paragraph 29 – Confidentiality
- Article II, Paragraph 29 – Criminal Background Check Requirements
- Article II, Paragraph 30 – Key Persons
- Exhibit A – On-Call Provision

Any contracts resulting from this RFP shall include insurance requirements which shall meet or exceed any and all applicable requirements as set forth in the below exhibits:

- Exhibit A Definitions (CMHP)
- Exhibit B Definitions (OHP)
- Exhibit C Insurance (CMHP)
- Exhibit D Insurance (OHP)
- Exhibit E CMHP Required Provider Contract Provisions
- Exhibit F CHMP Required Federal Terms & Conditions
- Exhibit G OHP Required Federal Terms & Conditions
- Exhibit H CMHP Service Element – MHS 20
- Exhibit I CMHP Service Element – MHS 37 EDD
- Exhibit J CMHP Service Element – MHS 25
- Exhibit K CMHP Service Element – MHS 66
- Exhibit L Performance Standards
- Exhibit M Certification Statement for Independent Contractor
- Exhibit N Qualified Service Organization Business Associate Agreement
- Exhibit O Business Associate Agreement
- Exhibit P CMHP Service Element MHS 37 Jail Diversion

CONTRACT EXHIBITS FOR EACH PROJECT	
Project	Required Exhibits
1. Adult Peer Delivered Services – Dual Diagnosis Support Groups	A, C, E, F, K, L, M, N, P, Q
2. Adult Peer Delivered Services – Jail Support	A, C, E, F, K, L, M, N, P, Q
3. Adult Peer Delivered Services – Clackamas County Crisis Clinic	A, C, E, F, J, L, M, N, P, Q, R
4. Adult Peer Delivered Services – Community Education	B, D, G, L, M, O, P, Q
5. Adult Peer Delivered Services – Villebois Community	A, C, E, F, H, L, M, N, P, Q
6. Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	B, D, G, L, M, N, P, Q
7. Children and Families – Family Navigator / Emergency Room Diversion	A, C, E, F, I, L, M, N, P, Q
8. Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	B, D, G, L, M, N, P, Q

All Exhibits are subject to change and/or amendment (e.g., as required by County’s funding sources).

**SECTION 4
EVALUATION PROCEDURE**

4.1 An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals independently by Project in accordance with the below criteria. The evaluation committee may recommend awards on a Project-by-Project basis 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 for each Project. 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 contracts 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 different Proposers, 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>
General Information (Section 5.4.)	0-30
Program Design (Section 5.5. A.)	0-40
Workshops/Support Groups/Training (Section 5.5. B.)	0-40
Staffing Plan and Development (Section 5.5. C.)	0-35
Quality Assurance (Section 5.5. D.)	0-30
Budget (Section 5.5. E.)	0-25
Available points	0-200

4.3 Once selections have been made, the County will enter into contract negotiations. During negotiations, 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 contracts. The negotiations will identify a level of work and associated fee that best represent the efforts required. If the County is unable to come to terms with the highest scoring Proposer for each Project, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple Projects and the County deems it is in its interest to not authorize any particular Project, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer for each Project.

**SECTION 5
PROPOSAL CONTENTS**

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

5.1.1. Complete Proposals may be mailed to the below address or 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 the Proposal is mailed, an original copy and an electronic copy (on compact disk or jump drive) must be included. The Proposal (hardcopy or email) must be received by the Closing Date and time indicated in Section 1 of the RFP.

5.1.2. Mailing address including Hand Delivery, US Mail, UPS and FEDEX:

Clackamas County Procurement Division – Attention George Marlton, Director
Clackamas County Public Services Building
2051 Kaen Road
Oregon City, OR 97045

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.

5.2. PROPOSALS

Provide in order the information as specified in sections 5.3., 5.4., 5.5., 5.6., 5.7., and 5.8. below:

5.3. PROPOSED PROJECT(S) COVER PAGE

Using the following table format, indicate which Project or Projects are included in your proposal:

<i>Project</i>	<i>Included in Proposal*</i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	
Project 2: Adult Peer Delivered Services – Jail Support	
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	
Project 4: Adult Peer Delivered Services – Community Education	
Project 5: Adult Peer Delivered Services – Villebois Community	
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	
*Any mark in this column, such as a checkmark or an “X”, indicates that the Project listed in the corresponding row shall be included in the Proposal. Blank rows in this column shall indicate that the Project listed in the corresponding row shall not be included in the proposal. The County shall, at its sole discretion, determine which Project or Projects are included with each proposal.	

5.4. General Information (0-30 Points, Page Limit 3 pages plus Organizational Chart)

Proposals must include the following general organizational information. **Proposals that include more than one Project shall only include one (1) “General Information” response.** Please describe or provide

- Organization’s mission statement and organizational goals.
- Organization’s history, relevant experience and capacity to provide peer support services of similar scope and type to those listed in the projects included in your proposal.

- Current relationships with system partners your organization may have such as, police, hospitals, and other community support organizations as relevant to the Projects included in your proposal.
- Ability, if any, to document services electronically.
- Organizational Chart and a clear description of the management and governance of the organization.
(include as attachment)

5.5. Service Information:

Proposals must include the following information related to the provision of peer delivered support services. **Proposals that include more than one Project must include a separate response to section “5.5 A.”, “5.5 B.” and “5.5 E.” for each Project that the proposal includes.** For example, a proposal that includes two (2) Projects, must include two (2) separate responses (one for each Project) including the information as specified in section “5.5 A.”, “5.5 B.”, and “5.5 E.”.

A. Program design, strategy, and capacity (0-40 Points, Page limit 4)

Please describe the following:

- Where services would be provided in Clackamas County.
- The peer support philosophy including the rationale and research used to support the model.
- The plan and/or planning process used to ensure the scope of individual peer services and supports are defined and driven by the individual receiving the support.
- Any training provided and/or certification(s) of peer support staff, paid or unpaid.
- How you identify the target population to be served (i.e. children, youth/young adults in transition, adults, families, older adults), experience serving this population and capacity to serve the population, including the number of individuals and/or families to be served.
- Your organization's ability to provide culturally-responsive services including services to persons whose primary language may not be English.

B. Workshops, Support Groups, and Training (0-40 Points, Page limit 3)

Please describe the following:

- Any workshops the organization is able to provide for people receiving support services or for the broader community. These workshops may include, but are not limited to, classes providing education on specific mental health diagnosis; informational classes on community resources; supportive employment or housing; alternative pathways to recovery, etc.
- Support groups the organization is able to provide for people receiving support services or to the broader community. These groups may include, but are not limited to Hearing Voices groups; AA, NA, DDA, or other anonymous groups supporting sobriety; group support for depression, anxiety, and other mental health conditions, etc.
- Trainings offered by the organization that benefits the peer support specialist workforce. These trainings may include, but are not limited to, training to become a peer support specialist; trauma informed approaches to peer support; leadership skill building; system navigation, etc.

C. Staffing Plan and Development (0-35 Points, Page limit 3)

Please describe the following:

- Supervision procedures and support for staff, both paid and unpaid.
- How your organization identifies and assures that peer providers have lived experience relevant to the role of peer providers.
- Opportunities for peer providers to network and receive support from other peer providers.

- How your organization promotes self-care and provides specific accommodations when necessary.
- Job descriptions of those providing direct services as well as their direct supervisors.
- Plan for training and staff development.

D. Quality Assurance (0-30 Points, Page limit 3)

Please describe the following:

- Organizational outcome measures, if established, and how are they measured and monitored
- Organization’s process for protecting client confidentiality. Do you have a written policy addressing this topic?
- Organization’s process for handling internal and external grievances. Do you have a written policy addressing this topic?
- Organization’s process for ensuring continuous quality improvement.
- Plan for organizational sustainability.

E. Budget Proposal (0-25 Points, Page limit 2)

Please complete and submit **one provided “Budget Form” for each proposed Project** (e.g., if your proposal includes two (2) Projects, complete two separate budget forms - one for each Project). An electronic version of the “Budget Form” can be found at the following website:

<https://www.clackamas.us/bids>

Each budget form shall only include the proposer’s budget to deliver one Project. Budget forms shall not reflect the costs that assume multiple Projects have been awarded. If multiple Projects are awarded to a single proposer, any resulting budgetary adjustments shall be made in the course of contract negotiations. Please review the sample contract and exhibits applicable to the Project(s) included in your proposal to guide the formation of your budget. For example, if exhibits applicable to your proposed Projects include allowable cost requirements, you might review them to ensure that your budget reflects a spending plan that is compliant with allowable cost requirements.

5.6. Fees

Please complete and submit the provided Budget Form. List the not-to-exceed amount you propose for each category indicated in the form. Monthly fees under contracts resulting from this RFP shall be calculated by dividing the budget for the initial contract term by the number of months it encompasses. Fees for renewed contracts resulting from this RFP will be calculated according to renewal negotiations and/or the conditions outlined in “Section 1” of this RFP.

5.7. References

Provide up to three (3) references from clients your firm has served similar to the County, preferably in the past three (3) years, for whom Proposer has provided services that are similar in nature to those included in your organization’s proposal. Provide the name, address, email, and phone number of the references.

5.8. Completed Proposal Certification (see the below form)

REQUEST FOR PROPOSALS #2018-45
Behavioral Health Peer Delivered Services
ADDENDUM NUMBER 1
September 27, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #1. Except as expressly amended below, all other terms and conditions of the original RFP shall remain unchanged.

The following changes are made to Section 3.4.8

1. Service Components: Remove in its entirety the following bullet point on page twelve (12) of the RFP:

- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

And replace with the following:

- Collaborating with diverse stakeholders in the community and others within the Health, Housing, and Human Services Department.

2. Staffing: Remove and replace in its entirety the following on page twelve (12) of the RFP:

This position collaborate and works closely with the HOPE Team (<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center (<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

And replace with the following:

- 1.0 FTE Peer Support Specialist in recovery from an opioid addiction and preferably with mental health lived experience.
- This position is partnered with a community paramedic team and will be working with American Medical Response, Inc. and Clackamas Fire.

End of Addendum #1

REQUEST FOR PROPOSALS #2018-45
 Behavioral Health Peer Delivered Services
 ADDENDUM NUMBER 2
 October 2, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #2. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The “CONTRACT EXHIBITS FOR EACH PROJECT” tables found in Section 3.6 on page 14 and Section 6.0.1 on page 21 of the RFP are hereby removed and replaced by the following:

CONTRACT EXHIBITS FOR EACH PROJECT	
Project	Required Exhibits
9. Adult Peer Delivered Services – Dual Diagnosis Support Groups	A, C, E, F, K, L, M, N
10. Adult Peer Delivered Services – Jail Support	A, C, E, F, K, L, M, N
11. Adult Peer Delivered Services – Clackamas County Crisis Clinic	A, C, E, F, J, L, M, N, P
12. Adult Peer Delivered Services – Community Education	B, D, G, L, M, O
13. Adult Peer Delivered Services – Villebois Community	A, C, E, F, H, L, M, N
14. Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	B, D, G, L, M, N
15. Children and Families – Family Navigator / Emergency Room Diversion	A, C, E, F, I, L, M, N
16. Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	B, D, G, L, M, N

End of Addendum #2

REQUEST FOR PROPOSALS #2018-45
Behavioral Health Peer Delivered Services
ADDENDUM NUMBER 3
October 24, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #3. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP Closing Date and Time is hereby changed from October 24, 2018 at 2:00 PM, Pacific Time to October 29, 2018 at 2:00 PM, Pacific Time. This change hereby amends all applicable references to the Closing Date and Time found in RFP #2018-45.

End of Addendum #3

REQUEST FOR PROPOSALS #2018-45
Behavioral Health Peer Delivered Services
ADDENDUM NUMBER 4
November 7, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”), on September 27, 2018 published Addendum #1, on October 3, 2018 published Addendum #2, and on October 24, 2018 published Addendum #3. The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #4. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP is hereby amended to remove all references to Project 7: Children and Families – Family Navigator / Emergency Room Diversion and Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors.

It is the County’s intent to promptly re-issue an RFP for Projects 7 and 8.

End of Addendum #4

ATTACHMENT B
VENDOR'S RESPONSE TO RFP

EXHIBIT A
DEFINITIONS (CMHP)

Whenever used in this Contract, the following terms shall have the meanings set forth below:

“Allowable Costs” means the costs described in 2 CFR Part 200 or 45 CFR Part 75, as applicable, except to the extent such costs are limited or excluded by other provisions of this Contract.

“AMH” means the former Addictions & Mental Health Division of the State of Oregon, now known as the Department of Human Services of the State of Oregon (DHS).

“Client” or “Individual” means with respect to a particular service provided by Contract any individual receiving that service, in whole or in part, with funds provided under this Contract.

“Community Mental Health Program” or “CMHP” means a centrally organized and coordinated program of services for persons with mental and emotional disorders, developmental disabilities, and addiction dependencies operated by, or contractually affiliated with a LMHA and operated in a specific geographic area of the State of Oregon.

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

“Contractor” means the entity contracted by the County.

“Coordinated Care Organizations” or “CCO” means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414-625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization’s members.

“County” means Clackamas County, a political subdivision of the State of Oregon.

“DHS” means the Department of Human Services of the State of Oregon, formerly known as the Addictions & Mental Health Division (AMH).

“Intergovernmental Agreement” means the 2017-2019 Intergovernmental Agreement for the Financing of Community Addictions and Mental Health Services between the State of Oregon, acting by and through its Oregon Health Authority and Clackamas County, as amended from time to time.

“LMHA” means Local Mental Health Authority.

“Measures and Outcomes Tracking System” or “MOTS” means the DHS (formally AMH) data system that stores client data submitted by Contractor and/or County.

“Mental Health Services” means treatment Services for Individuals diagnosed with serious mental health illness, or other mental or emotional disturbance, posing a danger to the health and safety of themselves or others.

“OAR” means the Oregon Administrative Rules as promulgated by the Oregon Health Authority and as amended from time to time.

“Oregon Health Authority” or “OHA” means the agency within the State of Oregon that is responsible for substance use disorders services, problem gambling prevention and treatment services, children and adult

mental health services, and maintaining custody of persons committed to the state, by courts, for care and treatment of mental illness.

“OWITS” means Oregon Web Infrastructure for Treatment Services, an optional free electronic health records systems.

“Provider” means a person or entity providing the particular Services, or portion thereof, in this Agreement.

“Provider Contract” or “Provider Agreement” means this Contract or a subcontract to purchase the particular Services, or a portion thereof, in this Contract.

“Trauma Informed Services” means Services that are reflective of the consideration and evaluation of the role that trauma plays in the lives of people seeking mental health and substance use disorders Services, including recognition of the traumatic effect of misdiagnosis and coercive treatment. Services are responsive to the vulnerabilities of trauma survivors and are delivered in a way that avoids inadvertent re-traumatization and facilitates individual direction of services.

**EXHIBIT C
INSURANCE (CMHP)**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

1. Workers Compensation. Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126. Contractors shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

2. Professional Liability. **Required by County** **Not required by County**

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages because of personal injury, bodily injury, death, or damage to property caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

If this box is checked Professional Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate.

3. General Liability. **Required by County** **Not required by County**

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage for the protection of the **County and the State of Oregon, and its officers, elected officials, agents, and employees.** It shall include contractual liability coverage for the indemnity provided under this Contract.

If this box is checked General Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

4. Automobile Liability. **Required by County** **Not required by County**

Commercial Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury, Death, and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

Commercial Automobile Liability insurance limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

Personal Automobile Liability insurance limits shall be not less than \$250,000/occurrence, \$500,000/aggregate, and \$100,000/property damage.

5. Physical Abuse and Molestation Liability. **Required by County** **Not required by County**

Physical Abuse and Molestation Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. Coverage shall be provided through either general liability or professional liability coverage. Proof of Sex Abuse/Molestation insurance coverage must be provided.

6. Privacy and Network Security. **Required by County** **Not required by County**

Privacy and Network Security coverages shall be obtained and maintained to provide protection against liability for (a) system attack; (b) denial or loss of service attacks; (c) spread of malicious software code; (d) unauthorized access and use of computer systems; and (e) liability from the loss or disclosure of confidential data with limit of \$1,000,000 per claim/annual aggregate.

If this box is checked Privacy and Network Security limit shall be at least \$4,000,000.

7. Additional Insured Provision. The insurance, other than Professional Liability (except to the extent it only applies to Commercial General Liability exposures), Workers' Compensation, Personal Automobile Liability and Pollution Liability Insurance, shall include **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees** as an additional insured.

8. Primary Coverage Clause. Contractor's insurance shall apply as primary and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above. This must be noted on the insurance certificate.

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

10. "Tail" Coverage. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Contract, for a minimum of twenty-four (24) months following the later of: (i) the Contractor's completion and County's acceptance of all Services required under the Provider Contract; or (ii) the expiration of all warranty periods provided under the Contract. Notwithstanding the foregoing 24-month requirement, if the Contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the Contractor may request and County may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If County approval is granted, the Contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

11. Self-insurance. Contractor may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that Contractor's self-insurance program complies with all applicable laws, provides coverage equivalent in both type and level to that required in this Exhibit, and is reasonably acceptable to County. Contractor shall furnish an acceptable insurance certificate to County for any insurance coverage required by this Contract that is fulfilled through self-insurance. Stop-loss insurance and reinsurance coverage against catastrophic and unexpected expenses may not be self-insured.

12. Certificates of Insurance. Contractor shall furnish evidence of the insurance required in this Contract. Contractor will maintain the insurance in full force throughout the duration of this Contract. No Contract shall be in effect until the required certificates have been received, approved, and accepted by County. A renewal certificate will be sent to County ten (10) days prior to coverage

expiration. The insurance for general liability and commercial automobile liability must include an endorsement naming **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees** as additional insureds with respect to the Work under this Contract. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

Clackamas County, 2051 Kaen Road, Suite 154, Oregon City, Oregon 97045

Certificates of Insurance should be submitted electronically or by mail to:

BHcontracts@clackamas.us

Clackamas County
Contracts Administration
2051 Kaen Road, Suite 154
Oregon City, OR 97045

- 13. Insurance Carrier Rating.** Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the County. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 14. Waiver of Subrogation.** Contractor agrees to waive their rights of subrogation arising from the Work performed under this Contract.
- 15. Notice of cancellation or change.** There shall be no cancellation, material change, exhaustion of aggregate limits, reduction of limits, or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Behavioral Health Division, 2051 Kaen Road, Suite 154, Oregon City, OR 97045 or BHcontracts@clackamas.us.
- 16. Insurance Compliance.** The County will be entitled to enforce Contractor compliance with the insurance requirements, and will take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force, terminating the Contract as permitted by the Contract, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a Contractor to work under this Contract when the County is aware that the Contractor is not in compliance with the insurance requirements.

EXHIBIT E
CMHP REQUIRED PROVIDER CONTRACT PROVISIONS

- 1. Expenditure of Funds.** Contractor may expend the funds paid to Contractor under this Contract solely on the delivery of contracted services subject to the following limitations (in addition to any other restrictions or limitations imposed by this Contract):
- a) Contractor may not expend on the delivery of Services any funds paid to Contractor under this Contract in excess of the amount reasonable and necessary to provide quality delivery of these Services.
 - b) If this Contract requires Contractor to deliver more than one service, Contractor may not expend funds paid to Contractor under this Contract for a particular service on the delivery of any other service.
 - c) If this Contract requires Contractor to deliver Substance Use Disorders and Problem Gambling Services, Contractor may not use the funds paid to Contractor under this Contract for such services to:
 - 1) Provide inpatient hospital services;
 - 2) Make cash payments to intended recipients of health services;
 - 3) Purchase or improve land, to purchase, construct or permanently improve (other than minor remodeling) any building or other facility or to purchase major medical equipment;
 - 4) Satisfy any requirement for expenditure of non-federal funds as a condition for receipt of federal funds (whether the federal funds are received under this Contract or otherwise); or
 - 5) Carry out any program prohibited by section 245(b) of the Health Omnibus Programs Extension Act of 1988 (codified at 42 U.S.C. 300ee-5), which generally prohibits funds provided under this Contract from being used to provide Individuals with hypodermic needles or syringes so that such Individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse.
 - d) Contractor may expend funds paid to Contractor under this Contract only in accordance with OMB Circulars or 45 CFR Part 75, as applicable on Allowable Costs. If Contractor expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, it shall have a single organization-wide audit conducted in accordance with the provisions of 45 CFR part 75, subpart F. If Contractor expends less than \$750,000 in a fiscal year beginning on or after that date, it is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials. Contractor, if subject to this requirement, shall at Contractor's own expense submit to OHA a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to OHA the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Contractor responsible for the financial management of funds received under this Contract. Copies of all audits must be submitted to OHA within thirty (30) calendar days of completion. Audit costs for audits not required in accordance with the Single Audit Act are unallowable. Contractor may not use the funds received under this Contract for inherently religious activities, as described in 45 CFR Part 87.
- 2. Records Maintenance, Access and Confidentiality.**
- a) **Access to Records and Facilities.** County, the Oregon Health Authority, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of

Contractor that are directly related to this Contract, the funds paid to Contractor hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, Contractor shall permit authorized representatives of County and the Oregon Health Authority to perform site reviews of all services delivered by Contractor hereunder.

- b) **Retention of Records.** Contractor shall retain and keep accessible all books, documents, papers, and records, that are directly related to this Contract, the funds paid to Contractor hereunder or to any services delivered hereunder, for a minimum of 6 years, or such longer period as may be required by other provisions of this Contract or applicable law, following the termination or expiration of this Contract. If there are unresolved audit or other questions at the end of the six-year period, Contractor shall retain the records until the questions are resolved.
- c) **Expenditure Records.** Contractor shall document the expenditure of all funds paid to Contractor under this Contract. Unless applicable federal law requires Contractor to utilize a different accounting system, Contractor shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit County and the Oregon Health Authority to verify how the funds paid to Contractor under this Contract were expended.
- d) **Client Records.** Unless otherwise specified in this Contract, Contractor shall create and maintain a client record for each client who receives services under this Contract. The client record must contain:
 - 1) Client identification;
 - 2) Problem assessment;
 - 3) Treatment, training and/or care plan;
 - 4) Medical information when appropriate; and
 - 5) Progress notes including service termination summary and current assessment or evaluation instrument as designated by the Oregon Health Authority in administrative rules.

Contractor shall retain client records in accordance with OAR 166-150-0005 through 166-150-0215 (State Archivist). Unless OAR 166-150-0005 through 166-150-0215 requires a longer retention period, client records must be retained for a minimum of six years from termination or expiration of this Contract.

- e) **Safeguarding of Client Information.** Contractor shall maintain the confidentiality of client records as required by applicable state and federal law, including without limitation, ORS 179.495 to 179.507, 45 CFR Part 205, 42 CFR Part 2, any administrative rule adopted by the Oregon Health Authority, implementing the foregoing laws, and any written policies made available to Contractor by County or by the Oregon Health Authority. Contractor shall create and maintain written policies and procedures related to the disclosure of client information, and shall make such policies and procedures available to County and the Oregon Health Authority for review and inspection as reasonably requested by County or the Oregon Health Authority.
- f) **Data Reporting.** All Individuals receiving Services with funds provided under this Contract must be enrolled and that Individual's record maintained in the Measures and Outcome Tracking System (MOTS) as specified in OHA's MOTS Reference Manual, located at: <http://www.oregon.gov/oha/amh/mots/Pages/resource.aspx>, and the "Who Reports in MOTS Policy," as stated below:

Which Behavioral Health Providers are Required to Report in MOTS?

The data collection system for the Health Systems Division (HSD) is the Measures and Outcomes Tracking System or MOTS. In general, behavioral health providers who are either licensed or have a letter of approval from the HSD (or the former Addictions & Mental Health Division [AMH]), and receive public funds to provide treatment services are required to report to MOTS. In addition to the general rule above, there are four basic ways to classify who is required to submit data to MOTS:

- 1) Providers with HSD Agreements that deliver treatment services (this includes Community Mental Health Programs [CMHP], Local Mental Health Authorities [LMHA] and other types of community behavioral health providers); These programs should all have a license or letter of approval from the HSD or AMH;
- 2) Providers that are subcontractors (can be a subcontractor of a CMHP or other entity that holds a contract with HSD or OHA, such as a Mental Health Organization [MHO], or a Coordinated Care Organization [CCO]);
- 3) Providers that HSD does not contract with but are required to submit data to MOTS by State/Federal statute or rule; These include DUII providers and methadone maintenance providers; and
- 4) Providers that contract with other governmental agencies (e.g., Oregon Youth Authority [OYA] or the Department of Corrections [DOC] to deliver mental health and/or substance abuse services).

Note: Primary care physicians that provide a single service on behalf of the CMHP are not required to report the MOTS status or service level data.

If you have questions, contact MOTS Support at MOTS.Support@state.or.us.

3. Alternative Formats of Written Materials. In connection with the delivery of Services, Contractor shall:

- a) Make available to a Client, without charge to the Client, upon the Client's, the County's or the Oregon Health Authority's request, any and all written materials in alternate, if appropriate, formats as required by the Oregon Health Authority's administrative rules or by the Oregon Health Authority's written policies made available to Contractor.
- b) Make available to a Client, without charge to the Client, upon the Client's, County's or the Oregon Health Authority's request, any and all written materials in the prevalent non-English languages in the area served by Contractor.
- c) Make available to a Client, without charge to the Client, upon the Client's, County's or the Oregon Health Authority's request, oral interpretation services in all non-English languages in the area served by Contractor.
- d) Make available to a Client with hearing impairments, without charge to the Client, upon the Client's, County's or the Oregon Health Authority's request, sign language interpretation services and telephone communications access services.

For purposes of the foregoing, "written materials" includes, without limitation, all written materials created or delivered in connection with the services and all Contractor contracts related to this Contract. The County may develop its own forms and materials and with such forms and materials the County shall be responsible for making them available to a Client, without charge to the Client or OHA, in the prevalent non-English language. OHA shall be responsible for making its forms and materials available, without charge to the Client or CMHP, in the prevalent non- English language.

4. **Reporting Requirements.** Contractor shall prepare and furnish the following information to County and the Oregon Health Authority when a service is delivered under this Contract:
 - a) Client, service and financial information as specified in the applicable Service Description attached hereto and incorporated herein by this reference.
 - b) All additional information and reports that County or the Oregon Health Authority reasonably requests.

5. **Compliance with Law.** Contractor shall comply with all state and local laws, regulations, executive orders and ordinances applicable to the Contract or to the delivery of services hereunder. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract:
 - a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations;
 - b) all state laws governing operation of community mental health programs, including without limitation, all administrative rules adopted by the Oregon Health Authority related to community mental health programs or related to client rights, OAR 943-005-0000 through 943-005-0070, prohibiting discrimination against Individuals with disabilities;
 - c) all state laws requiring reporting of client abuse; and
 - d) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the delivery of services under this Contract.

These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. All employers, including Contractor, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. In addition, Contractor shall comply, as if it were County thereunder, with the federal requirements set forth in **Exhibit F** to the certain 2017-2019 Intergovernmental Contract for the Financing of Community Mental Health, Substance Use Disorders, and Problem Gambling Services between County and the Oregon Health Authority dated as of July 1, 2017, which Exhibit is incorporated herein by this reference. For purposes of this Contract, all references in this Contract to federal and state laws are references to federal and state laws as they may be amended from time to time.

6. Unless Contractor is a State of Oregon governmental agency, Contractor agrees that it is an independent contractor and not an agent of the State of Oregon, the Oregon Health Authority or County.

7. To the extent permitted by applicable law, Contractor shall defend (in the case of the state of Oregon and the Oregon Health Authority, subject to ORS Chapter 180), save and hold harmless the State of Oregon and Clackamas County, and their officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of or relating to the operations of the Contractor, including but not limited to the activities of Contractor or its officers, employees, subcontractors or agents under this Contract.

8. Contractor understands that Contractor may be prosecuted under applicable federal and state criminal and civil laws for submitting false claims, concealing material facts, misrepresentation, falsifying data system input, other acts of misrepresentation, or conspiracy to engage therein.
9. Contractor shall only conduct transactions that are authorized by the County for transactions with the Oregon Health Authority that involve County funds directly related to this Contract.
10. Contractor(s) that are not units of local government as defined in ORS 190.003 shall obtain, at Contractor's expense, and maintain in effect with respect to all occurrences taking place during the term of the Contract, insurance requirements as defined in this Contract and incorporated herein by this reference.
11. Contractor(s) that are not units of local government as defined in ORS 190.003, shall indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (Indemnitee) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of the officers, agents, employees or subcontractors of the contractor (Claims). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the Contractor from and against any and all Claims.
12. Contractor shall include sections 1 through 11, in substantially the form set forth above, in all permitted Contractor contracts under this Contract.
13. Ownership of Intellectual Property.
 - a) Except as otherwise expressly provided herein, or as otherwise required by state or federal law, OHA and the County will not own the right, title and interest in any intellectual property created or delivered by the Contractor in connection with the Services. With respect to that portion of the intellectual property that the Contractor owns, Contractor grants to OHA and the County a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Contract that restrict or prohibit dissemination or disclosure of information, to: (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property; (2) authorize third parties to exercise the rights set forth in Section 13.a.(1) on OHA and the County's behalf; and (3) sublicense to third parties the rights set forth in Section 13.a.(1).
 - b) If state or federal law requires that OHA or County grant to the United States a license to any intellectual property, or if state or federal law requires that OHA or the United States own the intellectual property, then Contractor shall execute such further documents and instruments as OHA may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or OHA. To the extent that OHA becomes the owner of any intellectual property created or delivered by Contractor in connection with the Services, OHA will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Contract that restrict or prohibit dissemination or disclosure of information, to Contractor to use, copy, distribute, display, build upon and improve the intellectual property.

EXHIBIT F
CMHP REQUIRED FEDERAL TERMS AND CONDITIONS

Contractor shall comply with the following federal requirements. For purposes of this Contract, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** Contractors shall comply with all federal laws, regulations, and executive orders applicable to the Contract or to the delivery of Services. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. No federal funds may be used to provide Services in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in U.S. Department of Labor regulations (41 CFR Part 60).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Contract, including amendments, exceeds \$150,000 Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C.1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to OHA, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Contractors shall include in all contracts with subcontractors receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.
- 4. Energy Efficiency.** Contractors 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 U.S.C. 6201 et.seq. (Pub. L. 94-163).
- 5. Truth in Lobbying.** By signing this Contract, Contractor certifies, to the best of the Contractor's knowledge and belief that:

 - a.** No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, 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 Contract, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative Contract.

- 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 Contractor shall complete and submit Standard Form LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions.
- c.** Contractor 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.
- d.** This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- e.** No part of any federal funds paid to Contractor under this Contract shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
- f.** No part of any federal funds paid to Contractor under this Contract shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- g.** The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h.** No part of any federal funds paid to Contractor under this Contract 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 or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

- 6. Resource Conservation and Recovery.** Contractor 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 U.S.C. 6901 et. seq.). Section 6002 of that Act

(codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

7. **Audits.** Subrecipients, as defined in 45 CFR 75.2, shall comply with applicable Code of Federal Regulations (CFR) governing expenditure of federal funds. If a sub-recipient expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, it shall have a single organization-wide audit conducted in accordance with the provisions of 45 CFR part 75, subpart F. Copies of all audits must be submitted to County within thirty (30) calendar days of completion. If a sub recipient expends less than \$750,000 in a fiscal year beginning on or after December 26, 2014, it is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials.
8. **Debarment and Suspension.** Contractor shall not permit any person or entity to be a provider if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Providers with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
9. **Drug-Free Workplace.** Contractor shall comply with the following provisions to maintain a drug-free workplace: (i) Contractor certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Contractor's workplace or while providing Services to OHA clients. Contractor's notice shall specify the actions that will be taken by Contractor against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Contractor's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of Services under this Contract a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Contract, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction; (v) Notify OHA within ten (10) calendar days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any provider to comply with subparagraphs through (vii) above; (ix) Neither Contractor, or any of Contractor's employees, officers, agents may provide any Service required under this Contract while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Contractor or Contractor's employee, officer, agent has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or Contractor's performance of

essential job function or creates a direct threat to OHA clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Contract.

10. **Pro-Children Act.** Contractor shall comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).
11. **Medicaid Services.** To the extent Contractor provides any Service in which costs are paid in whole or in part by Medicaid, Contractor shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
 - a. Keep such records as are necessary to fully disclose the extent of the services provided to Individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
 - b. Comply with all disclosure requirements of 42 CFR Part 1002.4(a) and 42 CFR 455 Subpart (B).
 - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396 (a) (57) and (w), 42 CFR Part 431.107 (b) (4), and 42 CFR Part 489 subpart I.
 - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Contractor shall acknowledge Contractor's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e. Entities receiving \$5 million or more annually (under this Contract and any other Medicaid agreement) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, providers, and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a (a) (68).
12. **ADA.** Contractor shall comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 U.S.C. 12131 et. seq.) in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the delivery of Services.
13. **Agency-Based Voter Registration.** If applicable, Contractor shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an Individual may apply for or receive an application for public assistance.
14. **Disclosure.**
 - a. 42 CFR 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (Individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an Individual, the

date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (Individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (Individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b. 42 CFR 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- c. County or OHA reserves the right to take such action required by law, or where County or OHA has discretion, it deems appropriate, based on the information received (or the failure to receive) from the provider, fiscal agent or managed care entity.

15. Special Federal Requirements Applicable to Substance Use Disorders Services for Agencies receiving Substance Abuse Prevention and Treatment (SAPT) Block Grant funds (CFDA 93.959).

- a. **Order for Admissions:**
 - (1) Pregnant women who inject drugs;
 - (2) Pregnant substance abusers;
 - (3) Other Individuals who inject drugs; and
 - (4) All others.
- b. **Women's or Parent's Services.** If Contractor provides A&D 61 and A&D 62 Services, Contractor must:
 - (1) Treat the family as a unit and admit both women or parent and their children if appropriate.
 - (2) Provide or arrange for the following services to pregnant women and women with dependent children:
 - (a) Primary medical care, including referral for prenatal care;
 - (b) Pediatric care, including immunizations, for their children;
 - (c) Gender-specific treatment and other therapeutic interventions, e.g. sexual and physical abuse counseling, parenting training, and child care;
 - (d) Therapeutic interventions for children in custody of women or parent in treatment, which address, but are not limited to, the children's developmental needs and issues of abuse and neglect; and
 - (e) Appropriate case management services and transportation to ensure that women or parents and their children have access to the

services in (a) through (d) above.

- c. **Pregnant Women.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services, Contractor must:
- (1) Within the priority categories, if any, set forth in a particular Service Description, give preference in admission to pregnant women in need of treatment, who seek or are referred for and would benefit from such Services, within 48 hours;
 - (2) If Contractor has insufficient capacity to provide treatment Services to a pregnant woman, Contractor must refer the women to another Provider with capacity or if no available treatment capacity can be located, the outpatient Provider that the Individual is enrolled with will ensure that Interim Services are being offered. Counseling on the effects of alcohol and drug use on the fetus must be given within 48 hours, including a referral for prenatal care; and
 - (3) Perform outreach to inform pregnant women of the availability of treatment Services targeted to them and the fact that pregnant women receive preference in admission to these programs.
- d. **Intravenous Drug Abusers.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services, Contractor must:
- (1) Within the priority categories, if any, set forth in a particular Service Description and subject to the preference for pregnant women described above, give preference in admission to intravenous drug abusers;
 - (2) Programs that receive funding under the grant and that treat Individuals for intravenous substance abuse, upon reaching 90 percent of its capacity to admit Individuals to the program, must provide notification of that fact to the State within 7 calendar days;
 - (3) If Contractor receives a request for admission to treatment from an intravenous drug abuser, Contractor must, unless it succeeds in referring the Individual to another Provider with treatment capacity, admit the Individual to treatment not later than:
 - (a) 14 calendar days after the request for admission to Contractor is made;
 - (b) 120 calendar days after the date of such request if no Provider has the capacity to admit the Individual on the date of such request and, if Interim Services are made available not less than 48 hours after such request; or
 - (c) If Contractor has insufficient capacity to provide treatment Services to an intravenous drug abuser, refer the intravenous drug abuser to another Provider with capacity or if no available treatment capacity can be located, the outpatient provider that the Individual is enrolled with will ensure that interim services are being offered. If the Individual is not enrolled in outpatient treatment and is on a waitlist for residential treatment, the provider from the Contractor of the Individual's residence that is referring the Individual to residential services will make available counseling and education about human immunodeficiency virus(HIV) and tuberculosis (TB), risk of sharing needles, risks of transmission to sexual partners and infant, steps to ensure HIV and TB transmission does not occur, referral for HIV or TB treatment services, if necessary, within 48 hours.
- e. **Infectious Diseases.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services Contractor must:
- (1) Complete a risk assessment for infectious disease including Human

- Immunodeficiency Virus (HIV) and tuberculosis, as well as sexually transmitted diseases, based on protocols established by OHA, for every Individual seeking Services from Contractor; and
- (2) Routinely make tuberculosis services available to each Individual receiving Services for alcohol/drug abuse either directly or through other arrangements with public or non-profit entities and, if Contractor denies an Individual admission on the basis of lack of capacity, refer the Individual to another provider of tuberculosis Services.
 - (3) For purposes of (2) above, “tuberculosis services” means:
 - (a) Counseling the Individual with respect to tuberculosis;
 - (b) Testing to determine whether the Individual has contracted such disease and testing to determine the form of treatment for the disease that is appropriate for the Individual; and
 - (c) Appropriate treatment services.
- f. OHA Referrals.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services, Contractor must, within the priority categories, if any, set forth in a particular Service Description and subject to the preference for pregnant women and intravenous drug users described above, give preference in Substance Use Disorders and Problem Gambling Service delivery to persons referred by OHA.
- g. Barriers to Treatment.** Where there is a barrier to delivery of any Substance Use Disorder and Problem Gambling Service due to culture, gender, language, illiteracy, or disability, Contractor shall develop support services available to address or overcome the barrier, including:
- (1) Providing, if needed, hearing impaired or foreign language interpreters.
 - (2) Providing translation of written materials to appropriate language or method of communication.
 - (3) Providing devices that assist in minimizing the impact of the barrier.
 - (4) Not charging clients for the costs of measures, such as interpreters, that are required to provide nondiscriminatory treatment.
- h. Misrepresentation.** Contractor shall not knowingly or willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or Services for which payments may be made by County or OHA.
- i. Oregon Residency.** Substance Use Disorders Services funded through this Contract, except for A&D 60 Problem Gambling Client Finding Outreach Services, A&D 80, A&D 81, A&D 82 and A&D 83, may only be provided to residents of Oregon. Residents of Oregon are Individuals who live in Oregon. There is no minimum amount of time an Individual must live in Oregon to qualify as a resident so long as the Individual intends to remain in Oregon. A child’s residence is not dependent on the residence of his or her parents. A child living in Oregon may meet the residency requirement if the caretaker relative with whom the child is living is an Oregon resident.
- j. Tobacco Use.** If Contractor has Substance Use Disorders Services treatment capacity that has been designated for children, adolescents, pregnant women, and women with dependent children, Contractor must implement a policy to eliminate smoking and other use of tobacco at the facilities where the Services are delivered and on the grounds of such facilities.
- k. Client Authorization.** Contractor must comply with 42 CFR Part 2 when delivering a Substance Use Disorder Service that includes disclosure of Client information for purposes of eligibility determination. Contractor must obtain Client authorization for disclosure of billing information, to the extent and in the manner required by 42 CFR Part 2, before a Disbursement Claim is submitted with respect to delivery of a Substance Use Disorder Service to that Individual.

16. **Community Mental Health Block Grant (CFDA 93.958).** All funds, if any, awarded under this Contract for Mental Health Services are subject to the federal use restrictions and requirements set forth in Catalog of Federal Domestic Assistance Number 93.958 and to the federal statutory and regulatory restrictions imposed by or pursuant to the Community Mental Health Block Grant portion of the Public Health Services Act, 42 U.S.C. 300x-1 *et. seq.*, and Contractor shall comply with those restrictions.
17. **Substance Abuse Prevention and Treatment (CFDA 93.959).** To the extent Contractor provides any Service in which costs are paid in whole or in part by the Substance Abuse, Prevention, and Treatment Block Grant, Contractor shall comply with federal rules and statutes pertaining to the Substance Abuse, Prevention, and Treatment Block Grant, including the reporting provisions of the Public Health Services Act (42 U.S.C. 300x through 300x-66) and 45 CFR 96.130 regarding the sale of tobacco products. Regardless of funding source, to the extent Contractor provides any substance abuse prevention or treatment services, Contractor shall comply with the confidentiality requirements of 42 CFR Part 2. CMHP may not use the funds received under this Contract for inherently religious activities, as described in 45 CFR Part 87.
18. **Information Required by 2 CFR Subtitle B with guidance at 2 CFR Part 200.** All required data elements in accordance with 45 CFR 75.352 are available at: <http://www.oregon.gov/oha/amh/Pages/federal-reporting.aspx>.

EXHIBIT H
CMHP SERVICE ELEMENT - MHS 20

NON-RESIDENTIAL MENTAL HEALTH SERVICES FOR CHILD, YOUTH AND ADULTS

1. Service Description

a) Definitions

- 1) DSM 5 means The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) and is the 2013 update to the American Psychiatric Association's (APA) classification and diagnostic tool. The DSM serves as a universal authority for psychiatric diagnosis.
- 2) Intensive Outpatient Services means a specialized set of comprehensive in-home and community-based supports and mental health treatment services for children that are delivered in the most integrated setting in the community.
- 3) Intensive Treatment Services (ITS) means the range of services in the system of care comprised of Psychiatric Residential Treatment Facilities (PRTF) and Psychiatric Day Treatment Services (PDTS), or other services as determined by OHA, that provide active psychiatric treatment for children with severe emotional disorders and their families as defined in OAR 309-022-0105.
- 4) Child and Youth Needs and Strengths tool means a multi-purpose tool developed for children's services to support decision making, including level of care and service planning, facilitate quality improvement initiatives, and to allow for the monitoring of outcomes of services.
- 5) <http://praedfoundation.org/tools/the-child-and-adolescent-needs-and-strengths-cans/>.

b) Child and Youth Mental Health Services are:

- 1) Mental health services delivered to Individuals through age 17 (or through age 20 if Medicaid-eligible) who have primary mental, emotional, or behavioral health conditions diagnosed according to the DSM 5 criteria;
- 2) Screening and assessment to identify appropriate mental health services for these Individuals;
- 3) Referral and care coordination services with respect to mental health services delivered to these Individuals;
- 4) Prioritized for Individuals who are at immediate risk of psychiatric hospitalization or removal from the home due to a mental, emotional, or behavioral health disorder or pose a danger to the health and safety of themselves or others; and
- 5) Services that may be delivered, as appropriate, in a clinic, home, school, or other settings familiar and comfortable for the Individual receiving such services.

c) Adult Mental Health Services are:

- 1) Services delivered to Individuals diagnosed with serious mental illness or other mental or emotional disturbance posing a danger to the health and safety of themselves or others.
- 2) Community based services that shall include one or more of the following:

- (i) Use of standardized protocols and tools to identify the level of service need and intensity of care and coordination, addressing salient characteristics such as age, culture, and language;
- (ii) Apply OHA approved, standardized level of care tools for Individual with serious mental illness at intervals prescribed by OHA;
- (iii) Condition management and whole person approach to single or multiple conditions based on goals and needs identified by the Individual;
- (iv) General outpatient services including, but not limited to, care coordination and case management;
- (v) Medication and medication monitoring;
- (vi) Meaningful Individual and family involvement;
- (vii) Rehabilitation services including Individual, family and group counseling;
- (viii) Coordinate and facilitate access to appropriate housing services and community supports in the Individual's community of choice, including rent subsidy; and
- (ix) Other services and supports as needed for Individuals at the sole discretion of OHA.

2. Reporting Requirements

In addition to the reporting requirements described in the RFP, the following requirements apply:

All Individuals receiving MHS 20 Non-residential Mental Health Services with funds provided through this Contract must be enrolled and that Individual's record maintained in the Measures and Outcomes Tracking System (MOTS), or MMIS or comparably reported.

Contractor shall provide timely and relevant information to County as needed to enable County to submit reports to the State of Oregon on the delivery of all Services supported with funds provided through this Contract.

EXHIBIT L
PERFORMANCE STANDARDS

A. General Performance Standards

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

B. Staff Standards

Contractor will provide the following for all staff who are in direct contact with County clients:

- Completion of a successful criminal history records check through the Background Check Unit, a Shared Service of the Department of Human Services and the Oregon Health Authority and compliant with ORS 181A.200 and OAR 943-007-0001 to 943-007-0501;
 - Appropriate education and academic degrees;
 - Licenses or certificates, as required; and
 - Relevant work history or qualifications.

C. Monitoring

County shall monitor services provided by Contractor and has the right to require Contractor's compliance with established standards and performance requirements relative to the services provided, administrative and fiscal management, and with all obligations and conditions stated in this Contract.

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

D. Abuse Reporting

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

E. Confidentiality

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

EXHIBIT M
CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR
(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result;
AND
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- _____ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- _____ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- _____ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- _____ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- _____ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature _____

Date _____

Contractor Printed Name: _____

EXHIBIT N
QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT

This Qualified Service Organization Business Associate Agreement (“Agreement”) is entered into as of _____ (“Effective Date”) by and between **Clackamas County Health, Housing and Human Services, Behavioral Health Division** (“Covered Entity”), Health Centers Division Alcohol and Drug Treatment Program (“Program”) and **Cascadia Behavioral Healthcare, Inc.** (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996 and its regulations (“HIPAA”), and Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2 (“Confidentiality Rule”).

RECITALS

Whereas, the Covered Entity has engaged the services of the Business Associate as defined under 45 CFR §160.103 for or on behalf of the Covered Entity;

Whereas, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement (“Services Agreement”);

Whereas, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;

Whereas, the Parties agree to establish safeguards for the protection of such information;

Whereas, the Covered Entity and Business Associate desire to enter into this Agreement to address certain requirements under the HIPAA Rules **and** the Confidentiality Rule;

Now, therefore, the parties hereby agree as follows:

SECTION I – DEFINITIONS

- 1.1 “Breach” is any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
 - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within a Workforce member’s course and scope of employment or placement;
 - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Workforce members; and
 - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Disclose” or “disclosure” shall have the meaning given to such terms under the Confidentiality Rule, 42 CFR §2.11.
- 1.5 “Effective Date” shall be the Effective Date of this Agreement.
- 1.6 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Agreement.

- 1.7 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.8 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.
- 1.9 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- 1.10 “Individually Identifiable Health Information” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §160.103.
- 1.11 “Program” shall have the meaning given to such term under the Confidentiality Rule, 42 CFR §2.11.
- 1.12 “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to an Individual; and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the HIPAA Rules, 45 CFR §160.103 and §164.501.
- 1.13 “Protected Information” shall mean PHI provided by the Covered Entity to Business Associate or created, maintained, transmitted or received by Business Associate on Covered Entity’s behalf.
- 1.14 “Qualified Service Organization” shall have the meaning defined under the Confidentiality Rule, 42 CFR §2.11.
- 1.15 “Required by Law” shall have the meaning given to such phrase in 45 CFR §164.103.
- 1.16 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- 1.17 “Security Incident” shall have the meaning given to such phrase in 45 CFR §164.304.
- 1.18 “Unsecured Protected Health Information” shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in accordance with 45 CFR §164.402.
- 1.19 Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is under the direct control of such Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate.

SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement;

- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI. Notwithstanding the preceding language of this subsection, Business Associate acknowledges that PHI obtained by the Business Associate relating to individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule. This information received from the Covered Entity, is protected by the Confidentiality Rule and therefore the Business Associate is specifically prohibited from re-disclosing such information to agents or subcontractors without specific written consent of the subject Individual;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
- 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.10 To comply with the confidentiality, disclosure and re-disclosure requirements of the Confidentiality Rule as applicable;
- 2.11 To resist any efforts in judicial proceedings any efforts to obtain access to the PHI protected by the Confidentiality Rule except as expressly provided for in the Confidentiality Rule;
- 2.12 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.13 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it

- provides such electronic PHI agrees to implement reasonable and appropriate security measures to protect the PHI. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
- 2.14 To retain records related to the PHI hereunder for a period of six (6) years unless this Agreement is terminated prior thereto. In the event of termination of this Agreement, the provisions of Section V of this Agreement shall govern record retention, return or destruction;
 - 2.15 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
 - 2.16 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

SECTION III – THE PARTIES AGREE TO THE FOLLOWING PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE:

- 3.1 The Covered Entity and the Business Associate agree that this Agreement constitutes a Qualified Service Organization Agreement as required by the Confidentiality Rule. Accordingly, information obtained by the Business Associate relating to Individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule.
- 3.2 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.3 Except as otherwise limited in this Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the Confidentiality or HIPAA Rules if done by the Covered Entity; and,
- 3.4 Except as otherwise limited in this Agreement, the Business Associate may:
 - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate so long as such use is also permitted by the Confidentiality Rule; and,
 - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further

disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. PHI that is also subject to the Confidentiality Rule cannot be disclosed to a third party except as permitted under the Confidentiality Rule.

SECTION IV – NOTICE OF PRIVACY PRACTICES

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. The Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by the Covered Entity, except as set forth in Section 3.3 above.

SECTION V – BREACH NOTIFICATION REQUIREMENTS

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
- a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
 - b. By notice in plain language including and to the extent possible:
 - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
 - 4) A brief description of what the Covered Entity and/or Business Associate involved is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
 - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
 - c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
 - d. Provided notice to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.
- 5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

SECTION VI – TERM AND TERMINATION

- 6.1 **Term.** The term of this Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI provided by the Covered Entity to the Business Associate, or created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- 6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Agreement if cure is not reasonably possible.
- If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.
- Upon the Business Associate's knowledge of a material breach of this Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Agreement and Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Agreement if the Covered Entity has breached a material term of this Agreement if cure is not reasonably possible.
- 6.3 **Effect of Termination.**
- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
- b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

SECTION VII – GENERAL PROVISIONS

- 7.1 **Regulatory references.** A reference in this Agreement to the Confidentiality Rule, HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.
- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification by Covered Entity.** Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution Covered Entity agrees to indemnify, defend and hold harmless the Business Associate and its employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Covered Entity’s breach of Section 4.1 of this Agreement. Accordingly, on demand, Covered Entity shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Covered Entity’s breach hereunder. Covered Entity’s obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.5 **Indemnification by Business Associate.** Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate’s breach of Section II and III of this Agreement. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Business Associate’s breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.6 **Survival.** The respective rights and obligations of Business Associate under Section II of this Agreement shall survive the termination of the Services Agreement and this Agreement.
- 7.7 **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to first comply with the Confidentiality Rule and second to comply with the HIPAA Rules.

(Signature Page for QSOBAA Follows)

Board of Commissioners
Clackamas County

Members of the Board:

Approval of a Professional, Technical, and Personal Services Contract with
The Mental Health Association of Oregon for Peer Support Services for Opioid Overdose Survivors

Purpose/Outcomes	Provides peer support for recent survivors of an opioid overdose, who may or may not be in recovery.
Dollar Amount and Fiscal Impact	Maximum contract value is \$279,576.50
Funding Source	No County General Funds are involved. State of Oregon, Oregon Health Plan (OHP funds)
Duration	Effective upon signature through June 30, 2020, with an option to extend to June 30, 2022.
Previous Board Action	No previous Board action
Strategic Plan Alignment	1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals. 2. Ensure safe, healthy and secure communities.
Contact Person	Mary Rumbaugh, Director – Behavioral Health Division (503) 742-5305
Contract No.	#9018

BACKGROUND:

The Behavioral Health Division (BHD) of the Health, Housing & Human Services Department requests the approval of a Professional, Technical, and Personal Services Contract with The Mental Health Association of Oregon to provide peer support services to recent survivors of an opioid overdose, to include, “bridging services” for individuals wanting access to treatment and other recovery supports and assisting individuals in identifying wellness and recovery goals.

This contract, effective January 1, 2019 through June 30, 2020, with an option to extend to June 30, 2022, has a maximum value of \$279,576.50.

County Counsel reviewed and approved this contract.

RECOMMENDATION:

Staff recommends Board approval of this contract and authorization for Richard Swift to sign on behalf of the Clackamas County.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services Department

Placed on the Agenda of _____ by the Procurement Division

Healthy Families. Strong Communities.

2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

Clackamas.us/h3s



CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal Services Contract (this "Contract") is entered into between The Mental Health Association of Oregon ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of its Health Housing and Human Services Department ("H3S").

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective on January 1, 2019. Unless earlier terminated or extended, this Contract shall expire on June 30, 2020. 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. This Contract may be renewed for an additional two (2) year term upon the written agreement of both parties to this Contract.

2. Scope of Work. This Contract covers the Scope of Work described as Project 8: Adult Peer Delivered Services - Peer Support for Opioid Overdose Survivors as set forth in the RFP #2018-45 Behavioral Health Peer Delivered Services including all addenda thereto ("RFP"), attached and hereby incorporated by reference as Attachment "A." This contract is funded in whole or in part by state or federal funds. As such, this Contract is subject to the additional terms and conditions described in Exhibits B, D, G, L, M, and N.

3. Consideration. The County agrees to pay Contractor for accomplishing the Work required by this Contract, from available and authorized funds, a sum not to exceed one hundred nineteen thousand eight hundred eighteen dollars and fifty cents (\$119,818.50) for the initial term of this Contract, which expires on June 30, 2020, and the total Contract value including the two year renewal term shall not exceed two hundred seventy-nine thousand five hundred seventy-six dollars and fifty cents (\$279,576.50). If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Travel and Other Expense. Authorized: [] Yes [X] 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: http://www.clackamas.us/bids/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 including Exhibits B, D, G, L, M, N, Attachment "A", and the Contractor's Proposal attached and hereby incorporated by reference as Attachment "B". Work shall be performed in accordance with a schedule approved by the County.

5. Contractor Data.

Address: 10373 NE Hancock St, Suite 106, Portland, OR 97220

Contractor Contract Administrator: Sunny Briscoe

Phone No.: 503-922-2377 ext. 102

Email: sbrisco@mhaoforegon.org

MWESB Certification: [] DBE # [] MBE # [] WBE # [] ESB #

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 could subject Contractor to backup withholding.

ARTICLE II.

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and 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. Such books and records shall be maintained by Contractor for a minimum of three (3) 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 FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County’s reasonable administrative discretion, to continue to make payments under this Contract.
- 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 federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor’s surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor’s employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee’s wages to provide such services.

Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by the applicable State or Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.

- 5. EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

- 6. GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon 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.
- 7. HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- 8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** 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.
- 9. 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; (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; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Attachment C)
- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit D**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), 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. 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.

- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us, or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.
- 13. 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.
- 14. 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) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. 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, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. 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.
- 17. 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. 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, Paragraphs 1, 8, 13, 15, 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.
- 18. 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.

19. TAX COMPLIANCE CERTIFICATION. Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

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

20. TERMINATIONS. This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the Work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

21. REMEDIES. (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work

multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, 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.

- 22. 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.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. 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.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, 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.
- 26. 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.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.

(C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

(D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

- 28. CONFIDENTIALITY.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor 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 purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including

any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by its breach of its data security or confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

29. CRIMINAL BACKGROUND CHECK REQUIREMENTS. Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.

30. Further Assurances. Contractor agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to, executing all additional documentation necessary for County to comply with applicable State or Federal funding requirements.

31. 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.

The Mental Health Association of Oregon

Clackamas County Board of Commissioners

Authorized Signature Date

Chair Date

Name / Title (Printed)

Recording Secretary Date

_____165224-84_____
Oregon Business Registry #

Approved as to Form:

_____DNP / Oregon_____
Entity Type / State of Formation

County Counsel Date

ATTACHMENT A
PERSONAL/PROFESSIONAL SERVICES CONTRACT

SCOPE OF WORK

Contractor shall provide Behavioral Health Peer Delivered Services (“Work”). Work is described in the Request for Proposals #2018-45 Behavioral Health Peer Delivered Services issued September 12, 2018 (“RFP”) including all addenda thereto, included in this Attachment “A.” Insofar as the RFP includes Project Specific Scope and Expectations as stated therein, this Contract covers Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors. Work is further described in Vendor’s Response to RFP, hereby attached and incorporated by reference as Attachment “B.”

The County Contract administrator for this Contract is: Ally Linfoot

INVOICES AND PAYMENTS

- a. Consideration Rates – Fixed Fee basis of \$6,656.58 per month for this Contract’s eighteen (“18”) month initial term. Should a renewal option be exercised, the consideration rate shall be \$6,656.58 per month for the resulting twenty-four (“24”) month term.
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462. Payment for all Work performed under this Contract, including all optional renewals, shall not exceed the total maximum sum of **\$279,576.50**. Invoices shall be submitted to: Ally Linfoot, either by mail at 150 Beaver Creek RD, Oregon City OR, 97045 or email at ALinfoot@co.clackamas.or.us.
- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made 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 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. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. 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 billings shall also include the total amount billed to date by Contractor prior to the current invoice.



REQUEST FOR PROPOSALS #2018-45

FOR

BEHAVIORAL HEALTH PEER DELIVERED SERVICES

BOARD OF COUNTY COMMISSIONERS

JIM BERNARD, Chair
SONYA FISCHER, Commissioner
KEN HUMBERSTON, Commissioner
PAUL SAVAS, Commissioner
MARTHA SCHRADER, Commissioner

Donald Krupp
County Administrator

George Marlton
Procurement Division Director

Peter Madaus
Analyst

PROPOSAL CLOSING DATE, TIME AND LOCATION

DATE: September 12, 2018

TIME: 2:00 PM, Pacific Time

PLACE: Clackamas County Procurement Division
Clackamas County Public Services Building
2051 Kaen Road, Oregon City, OR 97045

SCHEDULE

Request for Proposals Issued.....	September 12, 2018
Protest of Specifications Deadline.....	September 19, 2018, 5:00 PM, Pacific Time
Deadline to Submit Clarifying Questions.....	October 3, 2018, 5:00 PM, Pacific Time
Request for Proposals Closing Date and Time.....	October 24, 2018, 2:00 PM, Pacific Time
Deadline to Submit Protest of Award.....	Seven (7) days from the Intent to Award
Anticipated Contract Start Date.....	January 1, 2019

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**SECTION 1
NOTICE OF REQUEST FOR PROPOSALS (RFP)**

Notice is hereby given that Clackamas County (“County”) through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, October 24, 2018** (“Closing”), to provide **Behavioral Health Peer Delivered Services**. No Proposals will be received or considered after that time.

As a result of this RFP, the County intends to enter into contracts for the eight (8) Behavioral Health Peer Delivered Services projects (“Project”) listed below in “Table 1.0” and further specified in “Section 3” of this RFP:

Table 1.0	
<i>Project</i>	<i>Not to Exceed 3.5 Year Budget</i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	\$142,000.00
Project 2: Adult Peer Delivered Services – Jail Support	\$426,000.00
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	\$532,500.00
Project 4: Adult Peer Delivered Services – Community Education	\$213,000.00
Project 5: Adult Peer Delivered Services – Villebois Community	\$710,000.00
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	\$439,500.00
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	\$342,500.00
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	\$287,500.00
*The “Not to Exceed 3.5 Year Budgets” amounts shall be included in proposal responses and shall not be construed to guarantee or represent the total contract value for any contracts that might result from this RFP.	

Each proposer entity shall only submit one proposal package in response to this RFP. This RFP is structured to allow proposer entities to include multiple Projects in one proposal package should they choose to do so. The resulting contract(s) from this RFP shall include a one and a half (1.5) year initial term with one (1) mutual renewal option for two (2) additional years.

Proposal packets are available from 7:00 AM to 6:00 PM Monday through Thursday at Clackamas County Procurement Division, Clackamas County Public Services Building, 2051 Kaen Road, Oregon City, OR 97045, telephone (503) 742-5444 or may be obtained at <http://www.clackamas.us/bids/>. Sealed Proposals are to be sent to Clackamas County Procurement Services – Attention George Marlton, Director at the above Kaen Road address. Sealed Proposals may be emailed to procurement@clackamas.us or sent to Clackamas County at the above Kaen Road address.

Contact Information

All communications with the County regarding this RFP shall only be directed to **Peter Madaus**, pmadaus@co.clackamas.or.us, (503) 742-5451.

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 bids from Minority, Women, 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. County will provide reasonable notice of its decision to all Proposers that have provided an address to the Procurement Division for this procurement. 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 the Bids and Contract Information page at <http://www.clackamas.us/bids/> for any published Addenda or response to clarifying questions.

2.5 Submission of Proposals: All Proposals must be submitted in a sealed envelope bearing on the outside, the name and address of the Proposer, the Project title, and Closing date/time. 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(s) in “Notice of Intent to Award” letter(s). Identification of the apparent successful Proposer(s) is procedural only and creates no right of the named Proposer(s) to award of the contract. Competing Proposer(s) will be notified in writing of the selection of the apparent successful Proposer(s) and shall be given seven (7) calendar days from the date on the “Notice of Intent to Award” letter 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. Written protests shall specify the Project(s) listed under Section 3 of this RFP to which the protest applies. 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(s) and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer(s); OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer(s) as nonresponsive, if such Proposer(s) is unable to demonstrate that its Proposal(s) complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name new apparent successful Proposer(s); OR
- c. reject all Proposals and cancel the procurement in whole, or with respect to any single Project or group of Projects named under Section 3 of this RFP.

2.7 Acceptance of Contractual Requirements: Failure of the selected Proposer(s) 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 192.501(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 192.501(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 192.500(1). 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(s) 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(s) are 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 Best and Final Offer: County may request best and final offers from those Proposers determined by County to be reasonably viable for contract award. However, County reserves the right to award a contract on the basis of initial Proposal received. Therefore, each Proposal should contain the Proposer's best terms from a price and technical standpoint. Following evaluation of the best and final offers, County may select for final contract negotiations/execution the offers that are most advantageous to County, considering cost and the evaluation criteria in this RFP.

2.28 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.

2.29 Intergovernmental Cooperative Procurement Statement: Pursuant to ORS 279A and LCRB, other public agencies shall have the ability to purchase the awarded goods and services from the awarded contractor(s) under terms and conditions of the resultant contract. Any such purchases shall be between the contractor and the participating public agency and shall not impact the contractor's obligation to County. Any estimated purchase volumes listed herein do not include other public agencies and County makes no guarantee as to their participation. Any Proposer, by written notification included with their

Proposal, may decline to extend the prices and terms of this solicitation to any and/or all other public agencies. County grants to any and all public serving governmental agencies, authorization to purchase equivalent services or products described herein at the same submitted unit bid price, but only with the consent of the contractor awarded the contract by the County.

**SECTION 3
SCOPE OF WORK**

3.1. INTRODUCTION

Clackamas County’s Behavioral Health Division (“Behavioral Health”) is seeking qualified programs and organizations to provide peer delivered support services in the areas of mental health and substance use. Services are to be provided within Clackamas County (“County”) and serving adults, children, youth, and families residing in the County or individuals moving to the County upon release from a correctional facility, juvenile detention facility, psychiatric or substance use treatment in-patient facility, or hospital. The County intends to enter into multiple contracts as a result of this solicitation.

In submitting a response to this RFP, the proposer certifies that paid staff providing services under any contract issued will be paid a living wage and receive appropriate benefits.

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

Since 2010, Behavioral Health has consistently worked to create a comprehensive Peer Delivered Services System of Care. We support a system of care that promotes a family’s and individual’s resiliency and recovery from mental health and substance use. Behavioral Health believes peer support is a critical element of recovery. Peer Services supports this system by ensuring individuals and families with children are empowered and drive the process of reaching and sustaining recovery, wellness, and resilience while building an inclusive community.

The outcome of this RFP process will be the availability of an array of peer delivered support services reaching a broad population of adults, youth and young adults in transition, family members and caregivers. These services will be provided to individuals and families who may also require support within other systems such as corrections, addictions, juvenile justice, child welfare, and others.

Please read this RFP carefully as Clackamas County seeks to fulfill several lines of peer support services. The Scopes of Work for each peer support service covered under this RFP are individually outlined in this Section. The peer support services are:

Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups
Project 2: Adult Peer Delivered Services – Jail Support
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic
Project 4: Adult Peer Delivered Services – Community Education
Project 5: Adult Peer Delivered Services – Villebois Community
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth
Project 7: Children and Families – Family Navigator / Emergency Room Diversion
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors

Proposers may submit a proposal for one or more of the above Projects. If Proposer submits a proposal for more than one Project, the proposal must be very clear and complete for each Project and follow instructions in Section 5.

3.3. SCOPE AND EXPECTATIONS FOR ALL PROJECTS

3.3.1. STAFF STANDARDS

Contractor shall complete the following for all staff:

- A successful criminal history records check through the State of Oregon Background Check Unit (“BCU”) compliant with ORS Chapter 181 and OAR 407-007-0000 to OAR 407-007-0370.
- Positive clearance through the General Services Administration System for Award Management (“SAM”) at time of hire and monthly thereafter; and
- Positive clearance through the Office of Inspector General’s (“OIG”) List of Excluded Individuals/Entities at time of hire and monthly thereafter.
- Review appropriate education and academic degrees;
- Review licenses or certificates, as required;
- Review relevant work history or qualifications;
- Document and certify that the staff’s education, experience, competence, and supervision are adequate to permit the staff to perform the assigned duties.

In addition, Contractor shall ensure all staff with direct one-on-one contact with the County residents:

- Complete Oregon Health Authority approved training program for Peer Delivered Services and adherence to all requirements in the Traditional Health Worker administrative rules including, OAR 410-180-0300 to OAR 410-180-0380.

County will provide technical assistance to Contractor on exclusion process through SAM and OIG, upon which time, the County will delegate to the Contractor the responsibility of exclusion checks. County may review Contractor’s adherence to exclusion checks during routine contract compliance monitoring.

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

In addition, Contractor shall not permit any person to provide services under this Contract who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101 “Program Integrity – Medicare and State Health Care Programs Subpart B”.

If Contractor is unable to adhere with requirements listed, Contractor shall communicate directly with Clackamas County’s Peer Services Coordinator a plan for meeting contract requirements.

3.3.1. REPORTING REQUIREMENTS

Behavioral Health’s Peer Delivered Services has developed the following general outcome measures that must be reported to the County on a quarterly basis.

Individuals Served:

- Number of individuals served during the reporting period.
- Number of new individuals served during the reporting period.
- Number of individuals who concluded support services during the reporting period.

Experience of Services:

- Does the individual feel they would have returned to a higher level of care or to a corrections setting if not for Peer Delivered Services?
- Does the individual feel their quality of life has improved overall?
- Has there been an increase in natural supports?

Training, Workshops, Support Groups:

- Number of continuing education/training programs or classes attended by Peer Support Specialists during the quarter.
- Number of workshops, support groups, or presentations provided for individuals receiving peer support services.
- Number of outreach activities conducted to inform and engage community partners and potential referral sources about the role of Peer Support Specialists and the Support Services available.

These reporting requirements will be included in any contract awarded. There may be additional reporting requirements dependent on the type of funding available for the contract and the specific type of peer support being provided through the contract. Please review the sample contract and exhibits associated with the program(s) for which you would like to propose to find additional reporting and related requirements.

3.4. PROJECT SPECIFIC SCOPE AND EXPECTATIONS

3.4.1. PROJECT 1: ADULT PEER DELIVERED SERVICES – DUAL DIAGNOSIS SUPPORT GROUPS

Budget:

\$142,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults with mental health and addictions seeking recovery support in a group setting.

Service Components:

Please provide a plan for providing the following services/supports:

- Comprehensive and current referral network with community agencies and system partners through an outreach specialist to promote recovery support groups
- Monthly fellowship meetings for group leaders.
- Maintenance of eight (8) or more chapters/groups that serve a minimum of 750 contacts throughout the duration of the contract.
- Supports/services including a focus on special populations, such as veterans.
- Ongoing outreach that includes dissemination of informational literature about meeting times, locations, and upcoming events.
- Workshops/trainings/support groups that will be available as well as opportunities for leadership development provided through the organization for those individuals being served.

3.4.2. PROJECT 2: ADULT PEER DELIVERED SERVICES – JAIL SUPPORT

Budget:

\$426,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults residing in Clackamas County Jail seeking recovery support for substance use and may also have co-occurring mental health issues.

Service Components:

Please provide a plan for providing the following services/supports:

- Weekly support groups, workshops and/or recovery curriculum within Clackamas County Jail.
- Collaborative work processes with the County services to begin engagement and access services and resources when appropriate.
- Workshops/trainings/support groups that will be available, as well as opportunities for leadership development provided through the organization for those individuals being served once they have been released from jail
- Peer support services within the jail.

Staffing:

- 1.0 FTE for a Lead Peer Recovery Mentor.
- 1.5 FTE Peer Support Specialists (PSS). At least one PSS must be male.

3.4.3. PROJECT 3: ADULT PEER DELIVERED SERVICES – CLACKAMAS COUNTY CRISIS CLINIC

Budget:

\$532,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults with mental health or co-occurring mental health and addiction who are seeking services through the County's crisis mental health walk-in clinic located in Clackamas County, OR.

Service Components:

Please provide a plan for providing the following services/supports:

- Cooperative work processes with the County to promote a recovery oriented support system that focuses on hope, choice, personal responsibility, and self-determination.
- Supports for individuals experiencing:
 - Recurring hospitalizations
 - Frequent police contact
 - New diagnoses
 - Difficulty engaging with natural community supports
- Both 1:1 support and group support.

Staffing:

The peer support team will work in collaboration with service teams located at the County's crisis walk-in clinic. Work will be performed both on site at the crisis clinic and in the community.

- 2 – 0.8 FTE Peer Support Specialists
- 1 – 0.4 FTE Peer Supervisor

3.4.4. PROJECT 4: ADULT PEER DELIVERED SERVICES – COMMUNITY EDUCATION

Budget:

\$213,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Family members, caregivers, and individuals seeking mental health education and group support for themselves and/or their loved ones. Priority for participation and enrollment in programs shall be granted to County residents.

Service Components:

Please provide a plan for providing the following services/supports:

- Family member and caregiver support groups.
- Peer support groups.
- Public education and outreach through curriculum and educational programming.
- Information regarding community resources.
- A variety of peer activities.

3.4.5. PROJECT 5: ADULT PEER DELIVERED SERVICES – VILLEBOIS COMMUNITY

Budget:

\$710,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults living in supportive housing in the Villebois Community at Renaissance Court Apartments, Rain Garden Apartments, and The Charleston Apartments located in Wilsonville, OR.

Service Components:

Please provide a plan for providing the following services/supports:

- 1:1 peer support for residents requesting support.
- Assistance in crisis and eviction prevention.
- Referrals to community resources.
- Coordination and facilitation of various group activities based on input from residents.

Staffing:

- 2 FTE Peer Wellness Specialist

3.4.6. PROJECT 6: TRANSITION AGE YOUTH PEER DELIVERED SERVICES – AFTER SCHOOL DROP IN FOR LGBTQ+ YOUTH

Budget:

\$439,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Provide support services to youth/young adults between the ages of 14-20 years who identify as lesbian, gay, bisexual, transgender, queer, intersex (“LGBTQI”).

Service Components:

Please provide a plan for providing the following services/supports:

- Collaborative work processes with the County to promote a support system that focuses on hope, choice, personal responsibility, and self-determination.
- Support and coordination to high schools and middle schools within the County for the development of Gay Straight Alliances (“GSA”).
- Coordination of an annual GSA summit.
- A minimum of (1) one day per week drop-in programming for LGBTQI youth/young adults.

Additional Questions:

Please describe:

- The process used to develop GSA’s within schools.
- Drop-in programming that will be offered.
- Any activities available to youth/young adults including workshops, trainings, leadership development, and social activities that will be available and provided by the organization.

3.4.7. PROJECT 7: CHILDREN AND FAMILIES – FAMILY NAVIGATOR / EMERGENCY ROOM DIVERSION

Budget:

\$342,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Provide support to families entering the Emergency Department (“ED”) within the County for a child experiencing a mental health crisis.

Service Components:

Please provide a plan for providing the following services/supports:

- Assistance, attendance and/or participation in supportive services for parents/caregivers navigating ED services.
- System navigation services and supports.
- Ongoing local resource information for families to access independently.
- Support of the development of and connection of families to natural supports within their community.
- Family Navigator will be required to collaborate closely with hospital systems and other system partners.

Staffing:

- 1.0 FTE Family Navigator

3.4.8. PROJECT 8: ADULT PEER DELIVERED SERVICES – PEER SUPPORT FOR OPIOID OVERDOSE SURVIVORS

Budget:

\$287,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults having recently survived an opioid overdose that require a response by emergency medical services in the County.

Service Components:

Please provide a plan for providing the following services/supports:

- 1:1 peer support for recent survivors of an opioid overdose who may or may not currently be in recovery
- Referrals to community resources
- “Bridging services” to those wanting to access treatment and other recovery supports
- SUD system navigation supports
- Assistance to individuals in identifying wellness and recovery goals
- Document supports provided to each individual
- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

Staffing:

This position collaborate and works closely with the HOPE Team (<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center (<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

3.5. TERM OF CONTRACT:

The term of the contract shall be from the effective date through **June 30, 2020** with the option for one (1) additional two (2) year renewal thereafter subject to the mutual agreement of the parties.

Throughout the term of the resulting contracts, the funding sources for the Project may increase or decrease. As applicable to each Project, the County reserves the right to issue amendments to the resulting contracts and either increase or decrease the budget and thereby adjust the service level accordingly. Any such decrease or increase shall also take into account the need for services, performance under the contract, and other factors related to the County’s best interest.

The fees proposed shall be fixed for the initial term of the contract (through June 30, 2020). For the renewal discussions, the County may consider a budgetary increase limited to the percentage reflected by the latest measurement of the Consumer Price Index, West Region (<https://www.bls.gov/regions/west/home.htm>). The County’s budgetary increase considerations may include factors such as availability of funding, the County’s best interest, and other factors as determined by the County.

3.6. 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 Professional Services Contract for this RFP can be found at <http://www.clackamas.us/bids/terms.html>.

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

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

- Article I, Paragraph 4 – Travel and Other Expense is Authorized
- Article II, Paragraph 29 – Confidentiality
- Article II, Paragraph 29 – Criminal Background Check Requirements
- Article II, Paragraph 30 – Key Persons
- Exhibit A – On-Call Provision

Any contracts resulting from this RFP shall include insurance requirements which shall meet or exceed any and all applicable requirements as set forth in the below exhibits:

- Exhibit A Definitions (CMHP)
- Exhibit B Definitions (OHP)
- Exhibit C Insurance (CMHP)
- Exhibit D Insurance (OHP)
- Exhibit E CMHP Required Provider Contract Provisions
- Exhibit F CHMP Required Federal Terms & Conditions
- Exhibit G OHP Required Federal Terms & Conditions
- Exhibit H CMHP Service Element – MHS 20
- Exhibit I CMHP Service Element – MHS 37 EDD
- Exhibit J CMHP Service Element – MHS 25
- Exhibit K CMHP Service Element – MHS 66
- Exhibit L Performance Standards
- Exhibit M Certification Statement for Independent Contractor
- Exhibit N Qualified Service Organization Business Associate Agreement
- Exhibit O Business Associate Agreement
- Exhibit P CMHP Service Element MHS 37 Jail Diversion

CONTRACT EXHIBITS FOR EACH PROJECT

Project	Required Exhibits
1. Adult Peer Delivered Services – Dual Diagnosis Support Groups	A, C, E, F, K, L, M, N, P, Q
2. Adult Peer Delivered Services – Jail Support	A, C, E, F, K, L, M, N, P, Q
3. Adult Peer Delivered Services – Clackamas County Crisis Clinic	A, C, E, F, J, L, M, N, P, Q, R
4. Adult Peer Delivered Services – Community Education	B, D, G, L, M, O, P, Q
5. Adult Peer Delivered Services – Villebois Community	A, C, E, F, H, L, M, N, P, Q
6. Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	B, D, G, L, M, N, P, Q
7. Children and Families – Family Navigator / Emergency Room Diversion	A, C, E, F, I, L, M, N, P, Q
8. Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	B, D, G, L, M, N, P, Q

All Exhibits are subject to change and/or amendment (e.g., as required by County’s funding sources).

**SECTION 4
EVALUATION PROCEDURE**

4.1 An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals independently by Project in accordance with the below criteria. The evaluation committee may recommend awards on a Project-by-Project basis 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 for each Project. 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 contracts 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 different Proposers, 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>
General Information (Section 5.4.)	0-30
Program Design (Section 5.5. A.)	0-40
Workshops/Support Groups/Training (Section 5.5. B.)	0-40
Staffing Plan and Development (Section 5.5. C.)	0-35
Quality Assurance (Section 5.5. D.)	0-30
Budget (Section 5.5. E.)	0-25
Available points	0-200

4.3 Once selections have been made, the County will enter into contract negotiations. During negotiations, 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 contracts. The negotiations will identify a level of work and associated fee that best represent the efforts required. If the County is unable to come to terms with the highest scoring Proposer for each Project, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple Projects and the County deems it is in its interest to not authorize any particular Project, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer for each Project.

**SECTION 5
PROPOSAL CONTENTS**

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

5.1.1. Complete Proposals may be mailed to the below address or 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 the Proposal is mailed, an original copy and an electronic copy (on compact disk or jump drive) must be included. The Proposal (hardcopy or email) must be received by the Closing Date and time indicated in Section 1 of the RFP.

5.1.2. Mailing address including Hand Delivery, US Mail, UPS and FEDEX:

Clackamas County Procurement Division – Attention George Marlton, Director
Clackamas County Public Services Building
2051 Kaen Road
Oregon City, OR 97045

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.

5.2. PROPOSALS

Provide in order the information as specified in sections 5.3., 5.4., 5.5., 5.6., 5.7., and 5.8. below:

5.3. PROPOSED PROJECT(S) COVER PAGE

Using the following table format, indicate which Project or Projects are included in your proposal:

<i>Project</i>	<i>Included in Proposal*</i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	
Project 2: Adult Peer Delivered Services – Jail Support	
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	
Project 4: Adult Peer Delivered Services – Community Education	
Project 5: Adult Peer Delivered Services – Villebois Community	
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	
<i>*Any mark in this column, such as a checkmark or an “X”, indicates that the Project listed in the corresponding row shall be included in the Proposal. Blank rows in this column shall indicate that the Project listed in the corresponding row shall not be included in the proposal. The County shall, at its sole discretion, determine which Project or Projects are included with each proposal.</i>	

5.4. General Information (0-30 Points, Page Limit 3 pages plus Organizational Chart)

Proposals must include the following general organizational information. **Proposals that include more than one Project shall only include one (1) “General Information” response.** Please describe or provide

- Organization’s mission statement and organizational goals.
- Organization’s history, relevant experience and capacity to provide peer support services of similar scope and type to those listed in the projects included in your proposal.

- Current relationships with system partners your organization may have such as, police, hospitals, and other community support organizations as relevant to the Projects included in your proposal.
- Ability, if any, to document services electronically.
- Organizational Chart and a clear description of the management and governance of the organization.
(include as attachment)

5.5. Service Information:

Proposals must include the following information related to the provision of peer delivered support services. **Proposals that include more than one Project must include a separate response to section “5.5 A.”, “5.5 B.” and “5.5 E.” for each Project that the proposal includes.** For example, a proposal that includes two (2) Projects, must include two (2) separate responses (one for each Project) including the information as specified in section “5.5 A.”, “5.5 B.”, and “5.5 E.”.

A. Program design, strategy, and capacity (0-40 Points, Page limit 4)

Please describe the following:

- Where services would be provided in Clackamas County.
- The peer support philosophy including the rationale and research used to support the model.
- The plan and/or planning process used to ensure the scope of individual peer services and supports are defined and driven by the individual receiving the support.
- Any training provided and/or certification(s) of peer support staff, paid or unpaid.
- How you identify the target population to be served (i.e. children, youth/young adults in transition, adults, families, older adults), experience serving this population and capacity to serve the population, including the number of individuals and/or families to be served.
- Your organization's ability to provide culturally-responsive services including services to persons whose primary language may not be English.

B. Workshops, Support Groups, and Training (0-40 Points, Page limit 3)

Please describe the following:

- Any workshops the organization is able to provide for people receiving support services or for the broader community. These workshops may include, but are not limited to, classes providing education on specific mental health diagnosis; informational classes on community resources; supportive employment or housing; alternative pathways to recovery, etc.
- Support groups the organization is able to provide for people receiving support services or to the broader community. These groups may include, but are not limited to Hearing Voices groups; AA, NA, DDA, or other anonymous groups supporting sobriety; group support for depression, anxiety, and other mental health conditions, etc.
- Trainings offered by the organization that benefits the peer support specialist workforce. These trainings may include, but are not limited to, training to become a peer support specialist; trauma informed approaches to peer support; leadership skill building; system navigation, etc.

C. Staffing Plan and Development (0-35 Points, Page limit 3)

Please describe the following:

- Supervision procedures and support for staff, both paid and unpaid.
- How your organization identifies and assures that peer providers have lived experience relevant to the role of peer providers.
- Opportunities for peer providers to network and receive support from other peer providers.

- How your organization promotes self-care and provides specific accommodations when necessary.
- Job descriptions of those providing direct services as well as their direct supervisors.
- Plan for training and staff development.

D. Quality Assurance (0-30 Points, Page limit 3)

Please describe the following:

- Organizational outcome measures, if established, and how are they measured and monitored
- Organization’s process for protecting client confidentiality. Do you have a written policy addressing this topic?
- Organization’s process for handling internal and external grievances. Do you have a written policy addressing this topic?
- Organization’s process for ensuring continuous quality improvement.
- Plan for organizational sustainability.

E. Budget Proposal (0-25 Points, Page limit 2)

Please complete and submit **one provided “Budget Form” for each proposed Project** (e.g., if your proposal includes two (2) Projects, complete two separate budget forms - one for each Project). An electronic version of the “Budget Form” can be found at the following website:

<https://www.clackamas.us/bids>

Each budget form shall only include the proposer’s budget to deliver one Project. Budget forms shall not reflect the costs that assume multiple Projects have been awarded. If multiple Projects are awarded to a single proposer, any resulting budgetary adjustments shall be made in the course of contract negotiations. Please review the sample contract and exhibits applicable to the Project(s) included in your proposal to guide the formation of your budget. For example, if exhibits applicable to your proposed Projects include allowable cost requirements, you might review them to ensure that your budget reflects a spending plan that is compliant with allowable cost requirements.

5.6. Fees

Please complete and submit the provided Budget Form. List the not-to-exceed amount you propose for each category indicated in the form. Monthly fees under contracts resulting from this RFP shall be calculated by dividing the budget for the initial contract term by the number of months it encompasses. Fees for renewed contracts resulting from this RFP will be calculated according to renewal negotiations and/or the conditions outlined in “Section 1” of this RFP.

5.7. References

Provide up to three (3) references from clients your firm has served similar to the County, preferably in the past three (3) years, for whom Proposer has provided services that are similar in nature to those included in your organization’s proposal. Provide the name, address, email, and phone number of the references.

5.8. Completed Proposal Certification (see the below form)

REQUEST FOR PROPOSALS #2018-45
Behavioral Health Peer Delivered Services
ADDENDUM NUMBER 1
September 27, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #1. Except as expressly amended below, all other terms and conditions of the original RFP shall remain unchanged.

The following changes are made to Section 3.4.8

1. Service Components: Remove in its entirety the following bullet point on page twelve (12) of the RFP:

- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

And replace with the following:

- Collaborating with diverse stakeholders in the community and others within the Health, Housing, and Human Services Department.

2. Staffing: Remove and replace in its entirety the following on page twelve (12) of the RFP:

This position collaborate and works closely with the HOPE Team (<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center (<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

And replace with the following:

- 1.0 FTE Peer Support Specialist in recovery from an opioid addiction and preferably with mental health lived experience.
- This position is partnered with a community paramedic team and will be working with American Medical Response, Inc. and Clackamas Fire.

End of Addendum #1

REQUEST FOR PROPOSALS #2018-45
 Behavioral Health Peer Delivered Services
 ADDENDUM NUMBER 2
 October 2, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #2. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The “CONTRACT EXHIBITS FOR EACH PROJECT” tables found in Section 3.6 on page 14 and Section 6.0.1 on page 21 of the RFP are hereby removed and replaced by the following:

CONTRACT EXHIBITS FOR EACH PROJECT	
Project	Required Exhibits
9. Adult Peer Delivered Services – Dual Diagnosis Support Groups	A, C, E, F, K, L, M, N
10. Adult Peer Delivered Services – Jail Support	A, C, E, F, K, L, M, N
11. Adult Peer Delivered Services – Clackamas County Crisis Clinic	A, C, E, F, J, L, M, N, P
12. Adult Peer Delivered Services – Community Education	B, D, G, L, M, O
13. Adult Peer Delivered Services – Villebois Community	A, C, E, F, H, L, M, N
14. Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	B, D, G, L, M, N
15. Children and Families – Family Navigator / Emergency Room Diversion	A, C, E, F, I, L, M, N
16. Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	B, D, G, L, M, N

End of Addendum #2

REQUEST FOR PROPOSALS #2018-45
Behavioral Health Peer Delivered Services
ADDENDUM NUMBER 3
October 24, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #3. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP Closing Date and Time is hereby changed from October 24, 2018 at 2:00 PM, Pacific Time to October 29, 2018 at 2:00 PM, Pacific Time. This change hereby amends all applicable references to the Closing Date and Time found in RFP #2018-45.

End of Addendum #3

REQUEST FOR PROPOSALS #2018-45
Behavioral Health Peer Delivered Services
ADDENDUM NUMBER 4
November 7, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”), on September 27, 2018 published Addendum #1, on October 3, 2018 published Addendum #2, and on October 24, 2018 published Addendum #3. The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #4. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP is hereby amended to remove all references to Project 7: Children and Families – Family Navigator / Emergency Room Diversion and Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors.

It is the County’s intent to promptly re-issue an RFP for Projects 7 and 8.

End of Addendum #4

**ATTACHMENT B
VENDOR'S RESPONSE TO RFP**

EXHIBIT B DEFINITIONS (OHP)

Whenever used in this Contract, the following terms shall have the meanings set forth below:

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

AMH: State of Oregon, Department of Human Services, Addictions and Mental Health Division (now known as the Department of Human Services of the State of Oregon [DHS]).

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

Contractor: The entity contracted by the County.

County: Clackamas County Behavioral Health Division.

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

Department: DHS (formally AMH) contracts with County to establish and finance community mental health and addition programs; County, in turn, subcontracts certain services to Contractor.

DHS: the Department of Human Services of the State of Oregon (formerly known as the Addictions & Mental Health Division [AMH]).

Federal Funds: Funds paid to Contractor under this Contract that are received from an agency, instrumentality or program of the Federal government of the United States.

Health Share of Oregon: A Coordinated Care Organization (CCO) serving Oregon Health Plan enrollees of Clackamas, Multnomah, and Washington Counties.

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

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

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

Misexpenditure: Money, other than an overexpenditure disbursed to Contractor by County under this Contract and expended by Contractor that:

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

Measures and Outcomes Tracking System (MOTS): the DHS (formally AMH) data system that stores client data submitted by Contractor and/or County.

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

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

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

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

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

Third Party Resources: Any individual, entity, or program that is, or may be, liable to pay all or part of the cost of any Covered Service furnished to an OHP Member, including but not limited to: private health insurance or group health plan; employment-related health insurance; medical support from absent parents; workers' compensation; Medicare; automobile liability insurance; other federal programs such as Veteran's Administration, Armed Forces Retirees and Dependent

Act, Armed Forces Active Duty and Dependents Military Medical Benefits Act, and Medicare Parts A and B; another state's Title XIX, Title XXI or state-funded Medical Assistance Program; and personal estates.

Valid Claim: An invoice, in the form of a CMS 1500 claim form, submitted for payment of covered health services rendered to an eligible client that is submitted within the required 120 days from the date of service or discharge and that can be processed without obtaining additional information from the provider of the service or from a third party. A valid claim is synonymous with the federal definition of a clean claim as defined in 42 CFR 447.45(b).

**EXHIBIT D
INSURANCE (OHP)**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

1. Workers Compensation. Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126. Contractors shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

2. Professional Liability. **Required by County** **Not required by County**

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages because of personal injury, bodily injury, death, or damage to property caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

If this box is checked Professional Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate.

3. General Liability. **Required by County** **Not required by County**

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage for the protection of the **County, Health Share of Oregon, and the State of Oregon, and its officers, elected officials, agents, and employees.** It shall include contractual liability coverage for the indemnity provided under this Contract.

If this box is checked General Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

4. Automobile Liability. **Required by County** **Not required by County**

Commercial Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury, Death, and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

Commercial Automobile Liability insurance limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

Personal Automobile Liability insurance limits shall be not less than \$250,000/occurrence, \$500,000/aggregate, and \$100,000/property damage.

5. Physical Abuse and Molestation Liability. **Required by County** **Not required by County**

Physical Abuse and Molestation Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. Coverage shall be provided through either general liability or professional liability coverage. Proof of Sex Abuse/Molestation insurance coverage must be provided.

6. Privacy and Network Security. **Required by County** **Not required by County**

Privacy and Network Security coverages shall be obtained and maintained to provide protection against liability for (a) system attack; (b) denial or loss of service attacks; (c) spread of malicious software code; (d) unauthorized access and use of computer systems; and (e) liability from the loss or disclosure of confidential data with limit of \$1,000,000 per claim/annual aggregate.

If this box is checked Privacy and Network Security limit shall be at least \$4,000,000.

7. Additional Insured Provision. The insurance, other than Professional Liability (except to the extent it only applies to Commercial General Liability exposures), Workers' Compensation, Personal Automobile Liability and Pollution Liability Insurance, shall include **Clackamas County, Health Share of Oregon, and the State of Oregon, and their officers, elected officials, agents, and employees** as an additional insured.

8. Primary Coverage Clause. Contractor's insurance shall apply as primary and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above. This must be noted on the insurance certificate.

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

10. "Tail" Coverage. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Contract, for a minimum of twenty-four (24) months following the later of: (i) the Contractor's completion and County's acceptance of all Services required under the Provider Contract; or (ii) the expiration of all warranty periods provided under the Contract. Notwithstanding the foregoing 24-month requirement, if the Contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period

described above, then the Contractor may request and County may grant approval of the maximum “tail” coverage period reasonably available in the marketplace. If County approval is granted, the Contractor shall maintain “tail” coverage for the maximum time period that “tail” coverage is reasonably available in the marketplace.

11. Self-insurance. Contractor may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that Contractor’s self-insurance program complies with all applicable laws, provides coverage equivalent in both type and level to that required in this Exhibit, and is reasonably acceptable to County. Contractor shall furnish an acceptable insurance certificate to County for any insurance coverage required by this Contract that is fulfilled through self-insurance. Stop-loss insurance and reinsurance coverage against catastrophic and unexpected expenses may not be self-insured.

12. Certificates of Insurance. Contractor shall furnish evidence of the insurance required in this Contract. Contractor will maintain the insurance in full force throughout the duration of this Contract. No Contract shall be in effect until the required certificates have been received, approved, and accepted by County. A renewal certificate will be sent to County ten (10) days prior to coverage expiration. The insurance for general liability and commercial automobile liability must include an endorsement naming **Clackamas County, Health Share of Oregon, and the State of Oregon, and their officers, elected officials, agents, and employees** as additional insureds with respect to the Work under this Contract. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

Clackamas County, 2051 Kaen Road, Suite 154, Oregon City, Oregon 97045

Certificates of Insurance should be submitted electronically or by mail to:

BHcontracts@clackamas.us

Clackamas County
Contracts Administration
2051 Kaen Road, Suite 154
Oregon City, OR 97045

13. Insurance Carrier Rating. Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the County. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

14. Waiver of Subrogation. Contractor agrees to waive their rights of subrogation arising from the Work performed under this Contract.

15. Notice of cancellation or change. There shall be no cancellation, material change, exhaustion of aggregate limits, reduction of limits, or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Behavioral Health Division, 2051 Kaen Road, Suite 154, Oregon City, OR 97045 or BHcontracts@clackamas.us.

17. Insurance Compliance. The County will be entitled to enforce Contractor compliance with the insurance requirements, and will take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force, terminating the Contract as permitted by the Contract, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a Contractor to work under this Contract when the County is aware that the Contractor is not in compliance with the insurance requirements.

EXHIBIT G

OHP REQUIRED FEDERAL TERMS AND CONDITIONS

Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, Contractor shall comply and, as indicated, cause all Subcontractors to comply with the following federal requirements to the extent that they are applicable. For purposes of this Contract, all references to federal and State laws are references to federal and State laws as they may be amended from time to time.

1. Miscellaneous Federal Provisions

Contractor shall comply and require all Subcontractors to comply with all federal laws, regulations and executive orders applicable to this Contract or to the delivery of Work. Without limiting the generality of the foregoing, Contractor expressly agrees to comply and require all Subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to this Contract: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) 45 CFR Part 84 which implements, Title V, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Section 1557 of the Patient Protection and Affordable Care Act (ACA), (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 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 this Contract and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.

2. Equal Employment Opportunity

If this Contract, including amendments, is for more than \$10,000, then Contractor shall comply and require all Subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

3. Clean Air, Clean Water, EPA Regulations

If this Contract, including amendments, exceeds \$100,000 then Contractor shall comply and require all Subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR

Part 1532), which prohibit the use under non-exempt federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to OHA, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include and require all Subcontractors to include in all contracts with Subcontractors receiving more than \$100,000, language requiring the Subcontractor to comply with the federal laws identified in this section.

4. Energy Efficiency

Contractor shall comply and require all Subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. 6201 et seq. (Pub. L. 94-163).

5. Truth in Lobbying

By signing this Contract, the Contractor certifies, to the best of the Contractor's knowledge and belief that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, 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 Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

c. The Contractor 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.

d. This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by Section 1352, Title 31, of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

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

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

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

6. HIPAA Compliance

The parties acknowledge and agree that each of County and the Contractor is a “covered entity” for purposes of privacy and security provisions of the Health Insurance Portability and Accountability Act and its implementing federal regulations (collectively referred to as HIPAA). County and Contractor shall comply with HIPAA to the extent that any Work or obligations of County arising under this Contract are covered by HIPAA. Contractor shall develop and implement such policies and procedures for maintaining the privacy and security of records and authorizing the use and disclosure of records required to comply with this Contract and with HIPAA. Contractor shall comply and cause all Subcontractors to comply with HIPAA and the following:

- a. **Privacy and Security of Individually Identifiable Health Information.** Individually Identifiable Health Information about specific individuals is protected from unauthorized use or disclosure consistent with the requirements of HIPAA. Individually Identifiable Health Information relating to specific individuals may be exchanged between Contractor and County for purposes directly related to the provision of services to clients which are funded in whole or in part under this Contract. However, Contractor shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate HIPAA Privacy Rules in 45 CFR Parts 160 and 164, OHA Privacy Rules, OAR Chapter 407 Division 014, or 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://apps.state.or.us/cf1/FORMS/>, Form number ME2090 Notice of Privacy Practices, or may be obtained from OHA.
- b. **HIPAA Information Security.** Contractor shall adopt and employ reasonable administrative and physical safeguards consistent with the Security Rules in 45 CFR Part 164 to ensure that client information shall be used by or disclosed only to the extent necessary for the permitted use or disclosure and consistent with applicable State and federal laws and the terms and conditions of this Contract. Security incidents involving client information must be immediately reported to DHS' Privacy Officer.
- c. **Data Transactions Systems.** Contractor shall comply with the HIPAA standards for electronic transactions published in 45 CFR Part 162 and the DHS EDT Rules, OAR 410-001-0000 through 410-001-0200. In order for Contractor to exchange electronic data transactions with OHA in connection with claims or encounter data, eligibility or Enrollment information, authorizations or other electronic transaction, Contractor shall execute an EDT Trading Partner Agreement with OHA and shall comply with the OHA EDT Rules.
- d. **Consultation and Testing.** If Contractor reasonably believes that the Contractor's, County'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, Contractor shall promptly consult the County or OHA HIPAA officer. Contractor, County, or OHA may initiate a request for testing of HIPAA transaction requirements, subject to available resources and OHA testing schedule.

7. Resource Conservation and Recovery

Contractor shall comply and require all Subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials

identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

8. Audits

- a.** Contractor shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Contract and applicable state or federal law.
- b.** If Contractor expends \$500,000 or more in Federal funds (from all sources) in its fiscal year beginning prior to December 26, 2014, Contractor shall have a single organization-wide audit conducted in accordance with the Single Audit Act. If Contractor expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, Contractor shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to OHA within 30 days of completion. If Contractor expends less than \$500,000 in Federal funds in a fiscal year beginning prior to December 26, 2014, or less than \$750,000 in a fiscal year beginning on or after that date, Contractor is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, Part 8, Section 2.

9. Debarment and Suspension

Contractor shall, in accordance with 42 CFR 438.808(b), not permit any person or entity to be a Subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No.12549. Subcontractors with 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 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:

- a.** The Provider is controlled by a sanctioned individual
- b.** 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

- c. 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:
 - (i) Any individual or entity excluded from participation in Federal health care programs.
 - (ii) Any entity that would provide those services through an excluded individual or entity.

The Contract prohibits the Contractor from knowingly having a person with ownership of 5% or more of the Contractor'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.

If OHA learns that Contractor has a prohibited relationship with a person or entity that is debarred, suspended, or excluded from participation in federal healthcare programs, OHA:

- a. Must notify DHHS of Contractor's noncompliance;
- b. May continue an existing agreement with the Contractor unless DHHS directs otherwise; and
- c. May not renew or extend the existing contract with the Contractor unless DHHS provides to the State a written statement describing compelling reasons that exist for renewing or extending the Contract, consistent with 42 CFR 438.610.

10. Drug-Free Workplace

Contractor shall comply and cause all Subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) Contractor certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Contractor's workplace or while providing services to Members. Contractor's notice shall specify the actions that will be taken by Contractor against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Contractor's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Contract a copy of the statement mentioned in Paragraph (i) above; (iv) Notify each employee in the statement required by Paragraph (i) above, that, as a condition of employment to provide services under this Contract, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction; (v)

Notify OHA within 10 days after receiving notice under Paragraph (iv) above, from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of Paragraphs (i) through (vi) above; (viii) Require any Subcontractor to comply with Paragraphs (i) through (vii) above; (ix) Neither Contractor, or any of Contractor's employees, officers, agents or Subcontractors may provide any service required under this Contract while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Contractor or Contractor's employee, officer, agent or Subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or Subcontractor's performance of essential job function or creates a direct threat to Clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Contract.

11. Pro-Children Act

Contractor shall comply and require all Subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et seq.).

12. Non-Discrimination

Contractor shall comply, and require its Subcontractors to 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. Contractor shall also comply with all applicable requirements of State civil rights and rehabilitation statutes and rules.

13. OASIS

To the extent applicable, Contractor shall comply with, and shall require Subcontractors to comply with, the Outcome and Assessment Information Set (OASIS) reporting requirements and patient notice requirements for skilled services provided by Home Health Agencies, pursuant to CMS requirements published in 42 CFR 484.20, and such subsequent regulations as CMS may issue in relation to the OASIS program.

14. Patient Rights Condition of Participation

To the extent applicable, Contractor shall comply with, and shall require Subcontractors to comply with, the Patient Rights Condition of Participation (COP) that Hospitals must meet to continue participation in the Medicaid program, pursuant to 42 CFR Part 482. For

purposes of this Contract, Hospitals include short-term, psychiatric, rehabilitation, long-term, and children's hospitals.

15. Federal Grant Requirements

The federal Medicaid rules establish that OHA and the County are recipients of federal financial assistance, and therefore are subject to federal grant requirements pursuant to 42 CFR 430.2(b). To the extent applicable to Contractor or to the extent OHA and/or the County requires Contractor to supply information or comply with procedures to permit OHA and/or the County to satisfy its obligations federal grant obligations or both, Contractor 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);
- f.** Part 95 (Medicaid and CHIP federal grant administration requirements); and
- g.** Contractor shall not expend, and Contractor shall include a provision in any Subcontract that its Subcontractor shall not expend, any of the funds paid under this Contract for roads, bridges, stadiums, or any other item or service not covered under the OHP.

16. Mental Health Parity

Contractor shall adhere to CMS guidelines regarding Mental Health Parity detailed below:

- a.** If Contractor does not include an aggregate lifetime or annual dollar limit on any medical/surgical benefits or includes an aggregate lifetime or annual dollar limit that applies to less than one-third of all medical/surgical benefits provided to enrollees, it may not impose an aggregate lifetime or annual dollar limit, respectively, on mental health or substance use disorder benefits;
- b.** If Contractor includes an aggregate lifetime or annual dollar limit on at least two-thirds of all medical/surgical benefits provided to enrollees, it must either apply the aggregate lifetime or annual dollar limit both to the medical/surgical benefits to which the limit would otherwise apply and to mental health or substance use disorder benefits in a manner that does not distinguish between the medical/surgical benefits and mental health or substance use disorder benefits; or not include an aggregate lifetime or annual dollar limit on mental health or substance use disorder benefits that

is more restrictive than the aggregate lifetime or annual dollar limit, respectively, on medical/surgical benefits;

- c.** If Contractor includes an aggregate lifetime limit or annual dollar amount that applies to one-third or more but less than two-thirds of all medical/surgical benefits provided to enrollees, it must either impose no aggregate lifetime or annual dollar limit on mental health or substance use disorder benefits; or impose an aggregate lifetime or annual dollar limit on mental health or substance use disorder benefits that is no more restrictive than an average limit calculated for medical/surgical benefits in accordance with 42 CFR 438.905(e)(ii);
- d.** Contractor must not apply any financial requirement or treatment limitation to mental health or substance use disorder benefits in any classification that is more restrictive than the predominant financial requirement or treatment limitation of that type applied to substantially all medical/surgical benefits in the same classification furnished to enrollees (whether or not the benefits are furnished by Contractor).
- e.** If a member is provided mental health or substance use disorder benefits in any classification of benefits (inpatient, outpatient, emergency care, or prescription drugs), mental health or substance use disorder benefits must be provided to the member in every classification in which medical/surgical benefits are provided;
- f.** Contractor may not apply any cumulative financial requirements for mental health or substance use disorder benefits in a classification (inpatient, outpatient, emergency care, prescription drugs) that accumulates separately from any established for medical/surgical benefits in the same classification;
- g.** Contractor may not impose NQTLs for mental health or substance use disorder benefits in any classification unless, under the policies and procedures of Contractor as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the NQTL to mental health or substance use disorder benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation for medical/surgical benefits in the classification;
- h.** Contractor shall provide all necessary documentation and reporting required by OHA to establish and demonstrate compliance with 42 CFR part 438, subpart K regarding parity in mental health and substance use disorder benefits.
- i.** Contractor shall use processes, strategies, evidentiary standards or other factors in determining access to out of network providers for mental health or substance use disorder benefits that are comparable to and applied no more stringently than, the processes, strategies, evidentiary standards or other factors in determining access to out of network providers for medical/surgical benefits in the same classification.

EXHIBIT L
PERFORMANCE STANDARDS

A. General Performance Standards

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

B. Staff Standards

Contractor will provide the following for all staff who are in direct contact with County clients:

- Completion of a successful criminal history records check through the Background Check Unit, a Shared Service of the Department of Human Services and the Oregon Health Authority and compliant with ORS 181A.200 and OAR 943-007-0001 to 943-007-0501;
 - Appropriate education and academic degrees;
 - Licenses or certificates, as required; and
 - Relevant work history or qualifications.

C. Monitoring

County shall monitor services provided by Contractor and has the right to require Contractor's compliance with established standards and performance requirements relative to the services provided, administrative and fiscal management, and with all obligations and conditions stated in this Contract.

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

D. Abuse Reporting

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

E. Confidentiality

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

EXHIBIT M
CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR
(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result;
AND
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- _____ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- _____ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- _____ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- _____ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- _____ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature _____

Date _____

Contractor Printed Name: _____

EXHIBIT N
QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT

This Qualified Service Organization Business Associate Agreement (“Agreement”) is entered into as of _____ (“Effective Date”) by and between **Clackamas County Health, Housing and Human Services, Behavioral Health Division** (“Covered Entity”), Health Centers Division Alcohol and Drug Treatment Program (“Program”) and **The Mental Health Association of Oregon** (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996 and its regulations (“HIPAA”), and Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2 (“Confidentiality Rule”).

RECITALS

Whereas, the Covered Entity has engaged the services of the Business Associate as defined under 45 CFR §160.103 for or on behalf of the Covered Entity;

Whereas, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement (“Services Agreement”);

Whereas, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;

Whereas, the Parties agree to establish safeguards for the protection of such information;

Whereas, the Covered Entity and Business Associate desire to enter into this Agreement to address certain requirements under the HIPAA Rules **and** the Confidentiality Rule;

Now, therefore, the parties hereby agree as follows:

SECTION I – DEFINITIONS

- 1.1 “Breach” is any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
 - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within a Workforce member’s course and scope of employment or placement;
 - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Workforce members; and
 - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Disclose” or “disclosure” shall have the meaning given to such terms under the Confidentiality Rule, 42 CFR §2.11.
- 1.5 “Effective Date” shall be the Effective Date of this Agreement.
- 1.6 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that

- the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Agreement.
- 1.7 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
 - 1.8 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.
 - 1.9 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
 - 1.10 “Individually Identifiable Health Information” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §160.103.
 - 1.11 “Program” shall have the meaning given to such term under the Confidentiality Rule, 42 CFR §2.11.
 - 1.12 “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to an Individual; and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the HIPAA Rules, 45 CFR §160.103 and §164.501.
 - 1.13 “Protected Information” shall mean PHI provided by the Covered Entity to Business Associate or created, maintained, transmitted or received by Business Associate on Covered Entity’s behalf.
 - 1.14 “Qualified Service Organization” shall have the meaning defined under the Confidentiality Rule, 42 CFR §2.11.
 - 1.15 “Required by Law” shall have the meaning given to such phrase in 45 CFR §164.103.
 - 1.16 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
 - 1.17 “Security Incident” shall have the meaning given to such phrase in 45 CFR §164.304.
 - 1.18 “Unsecured Protected Health Information” shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in accordance with 45 CFR §164.402.
 - 1.19 Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is under the direct control of such Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate.

SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;

- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement;
- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI. Notwithstanding the preceding language of this subsection, Business Associate acknowledges that PHI obtained by the Business Associate relating to individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule. This information received from the Covered Entity, is protected by the Confidentiality Rule and therefore the Business Associate is specifically prohibited from re-disclosing such information to agents or subcontractors without specific written consent of the subject Individual;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
- 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.10 To comply with the confidentiality, disclosure and re-disclosure requirements of the Confidentiality Rule as applicable;
- 2.11 To resist any efforts in judicial proceedings any efforts to obtain access to the PHI protected by the Confidentiality Rule except as expressly provided for in the Confidentiality Rule;
- 2.12 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;

- 2.13 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such electronic PHI agrees to implement reasonable and appropriate security measures to protect the PHI. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
- 2.14 To retain records related to the PHI hereunder for a period of six (6) years unless this Agreement is terminated prior thereto. In the event of termination of this Agreement, the provisions of Section V of this Agreement shall govern record retention, return or destruction;
- 2.15 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
- 2.16 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

SECTION III – THE PARTIES AGREE TO THE FOLLOWING PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE:

- 3.1 The Covered Entity and the Business Associate agree that this Agreement constitutes a Qualified Service Organization Agreement as required by the Confidentiality Rule. Accordingly, information obtained by the Business Associate relating to Individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule.
- 3.2 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.3 Except as otherwise limited in this Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the Confidentiality or HIPAA Rules if done by the Covered Entity; and,
- 3.4 Except as otherwise limited in this Agreement, the Business Associate may:
 - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate so long as such use is also permitted by the Confidentiality Rule; and,

- b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. PHI that is also subject to the Confidentiality Rule cannot be disclosed to a third party except as permitted under the Confidentiality Rule.

SECTION IV – NOTICE OF PRIVACY PRACTICES

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. The Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by the Covered Entity, except as set forth in Section 3.3 above.

SECTION V – BREACH NOTIFICATION REQUIREMENTS

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
 - a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
 - b. By notice in plain language including and to the extent possible:
 - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
 - 4) A brief description of what the Covered Entity and/or Business Associate involved is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
 - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.

- c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
 - d. Provided notice to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.
- 5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

SECTION VI – TERM AND TERMINATION

- 6.1 **Term.** The term of this Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI provided by the Covered Entity to the Business Associate, or created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- 6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Agreement if cure is not reasonably possible. If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach. Upon the Business Associate's knowledge of a material breach of this Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Agreement and Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Agreement if the Covered Entity has breached a material term of this Agreement if cure is not reasonably possible.
- 6.3 **Effect of Termination.**
- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
 - b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect

to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

SECTION VII – GENENERAL PROVISIONS

- 7.1 **Regulatory references.** A reference in this Agreement to the Confidentiality Rule, HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.
- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification by Covered Entity.** Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution Covered Entity agrees to indemnify, defend and hold harmless the Business Associate and its employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Covered Entity’s breach of Section 4.1 of this Agreement. Accordingly, on demand, Covered Entity shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Covered Entity’s breach hereunder. Covered Entity’s obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.5 **Indemnification by Business Associate.** Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate’s breach of Section II and III of this Agreement. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Business Associate’s breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.6 **Survival.** The respective rights and obligations of Business Associate under Section II of this Agreement shall survive the termination of the Services Agreement and this Agreement.
- 7.7 **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to first comply with the Confidentiality Rule and second to comply with the HIPAA Rules.

(Signature Page for QSOBAA Follows)

**SIGNATURE PAGE FOR QUALIFIED SERVICE ORGANIZATION BUSINESS
ASSOCIATE AGREEMENT**

The Parties hereto have duly executed this Agreement as of the Effective Date as defined here above.

Business Associate
The Mental Health Association of Oregon

Covered Entity
Clackamas County Board of Commissioners

Authorized Signature Date

Chair Date

Name / Title (Printed)

Recording Secretary Date

_____ 165224-84 _____
Oregon Business Registry #

_____ DNP / Oregon _____
Entity Type / State of Formation

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of a Professional Services Contract with Oregon Family Support Network for
Peer Delivered Services for Families in Crisis in Emergency Departments

Purpose/Outcomes	Provides Family Navigator and Peer Support Services for crisis diversion in Emergency Departments.
Dollar Amount and Fiscal Impact	Maximum contract value is \$319,285.
Funding Source	No County General Funds involved State of Oregon, Community Mental Health Program (CMHP) funds
Duration	Effective January 1, 2019 through June 30, 2020 with an option to extend to June 30, 2022.
Previous Board Action	No previous Board action
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe. 2. Ensure safe, healthy and secure communities.
Contact Person	Mary Rumbaugh, Director – Behavioral Health Division, 503-742-5305
Contract No.	#8144

BACKGROUND:

The Behavioral Health Division (BHD) of the Health, Housing & Human Services Department requests the approval of a Professional Services Contract with the Oregon Family Support Network (OFSN). On September 12, 2018, a Request for Proposals (RFP) was issued for eight peer-delivered service programs. The RFP closed October 24, 2018, and OFSN was selected to be awarded a contract for Family Navigator and Peer Support Services for crisis diversion in Emergency Departments, including, but not limited to, supportive services, system navigation, resources, and family development.

This contract, effective January 1, 2019 through June 30, 2020, with an option to extend to June 30, 2022, has a maximum value is \$319,285. County Counsel reviewed and approved this contract.

RECOMMENDATION:

Staff recommends Board approval of this contract and authorization for Richard Swift, H3S Director, to sign on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director
 Health, Housing & Human Services Department

Placed on the Agenda of _____ by the Procurement Division



CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal Services Contract (this "Contract") is entered into between Oregon Family Support Network, Inc. ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of its Health Housing and Human Services Department ("H3S").

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective on January 1, 2019. Unless earlier terminated or extended, this Contract shall expire on June 30, 2020. 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. This Contract may be renewed for an additional two (2) year term upon the written agreement of both parties to this Contract.

2. Scope of Work. This Contract covers the Scope of Work described as Project 7: Children and Families - Family Navigator / Emergency Room Diversion as set forth in the RFP #2018-45 Behavioral Health Peer Delivered Services including all addenda thereto ("RFP"), attached and hereby incorporated by reference as Attachment "A." This contract is funded in whole or in part by state or federal funds. As such, this Contract is subject to the additional terms and conditions described in Exhibits A, C, E, F, I, L, M, and N.

3. Consideration. The County agrees to pay Contractor for accomplishing the Work required by this Contract, from available and authorized funds, a sum not to exceed one hundred thirty-one thousand seven hundred seventy-five dollars (\$131,775.00) for the initial term of this Contract, which expires on June 30, 2020, and the total Contract value including the two year renewal term shall not exceed three hundred nineteen thousand two hundred eighty-five dollars (\$319,285.00). If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Travel and Other Expense. Authorized: [] Yes [X] 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: http://www.clackamas.us/bids/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 including Exhibits A, C, E, F, I, L, M, N, Attachment "A", and the Contractor's Proposal attached and hereby incorporated by reference as Attachment "B". Work shall be performed in accordance with a schedule approved by the County.

5. Contractor Data.

Address: 4275 Commercial Street SE Suite 180, Salem, OR 97302

Contractor Contract Administrator: Sandra Bumpus

Phone No.: 503-363-8068

Email: sandy.bumpus@ofsn.net

MWESB Certification: [] DBE # [] MBE # [] WBE # [] ESB #

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 could subject Contractor to backup withholding.

ARTICLE II.

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and 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. Such books and records shall be maintained by Contractor for a minimum of three (3) 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 FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County’s reasonable administrative discretion, to continue to make payments under this Contract.
- 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 federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor’s surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor’s employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee’s wages to provide such services.

Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by the applicable State or Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.

- 5. EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

- 6. GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon 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.
- 7. HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- 8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** 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.
- 9. 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; (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; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Attachment C)
- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit C**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), 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. 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.

- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us, or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.
- 13. 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.
- 14. 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) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. 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, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. 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.
- 17. 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. 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, Paragraphs 1, 8, 13, 15, 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.
- 18. 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.

19. TAX COMPLIANCE CERTIFICATION. Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

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

20. TERMINATIONS. This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the Work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

21. REMEDIES. (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work

multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, 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.

- 22. 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.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. 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.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, 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.
- 26. 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.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.

(C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

(D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

28. CONFIDENTIALITY. Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor 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 purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including

any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by its breach of its data security or confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

29. CRIMINAL BACKGROUND CHECK REQUIREMENTS. Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.

30. Further Assurances. Contractor agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to, executing all additional documentation necessary for County to comply with applicable State or Federal funding requirements.

31. 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.

Oregon Family Support Network, Inc.

Clackamas County Board of Commissioners

Authorized Signature Date

Chair Date

Name / Title (Printed)

Recording Secretary Date

_____ 342496-80 _____

Oregon Business Registry #

Approved as to Form:

_____ DNP / Oregon _____

Entity Type / State of Formation

County Counsel Date

**ATTACHMENT A
PERSONAL/PROFESSIONAL SERVICES CONTRACT**

SCOPE OF WORK

Contractor shall provide Behavioral Health Peer Delivered Services (“Work”). Work is described in the Request for Proposals #2018-45 Behavioral Health Peer Delivered Services issued September 12, 2018 (“RFP”) including all addenda thereto, included in this Attachment “A.” Insofar as the RFP includes Project Specific Scope and Expectations as stated therein, this Contract covers Project 7: Children and Families – Family Navigator/Emergency Room Diversion. Work is further described in Vendor’s Response to RFP, hereby attached and incorporated by reference as Attachment “B.”

The County Contract administrator for this Contract is: Ally Linfoot

INVOICES AND PAYMENTS

- a. Consideration Rates – Fixed Fee basis of \$7,320.83 per month for this Contract’s eighteen (“18”) month initial term. Should a renewal option be exercised, the consideration rate shall be \$7,687.91 per month for the resulting twenty-four (“24”) month term.
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462. Payment for all Work performed under this Contract, including all optional renewals, shall not exceed the total maximum sum of **\$319,285.00**. Invoices shall be submitted to: Ally Linfoot, either by mail at 150 Beaver Creek RD, Oregon City OR, 97045 or email at ALinfoot@co.clackamas.or.us.
- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made 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 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. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. 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 billings shall also include the total amount billed to date by Contractor prior to the current invoice.



REQUEST FOR PROPOSALS #2018-45

FOR

BEHAVIORAL HEALTH PEER DELIVERED SERVICES

BOARD OF COUNTY COMMISSIONERS

JIM BERNARD, Chair
SONYA FISCHER, Commissioner
KEN HUMBERSTON, Commissioner
PAUL SAVAS, Commissioner
MARTHA SCHRADER, Commissioner

Donald Krupp
County Administrator

George Marlton
Procurement Division Director

Peter Madaus
Analyst

PROPOSAL CLOSING DATE, TIME AND LOCATION

DATE: September 12, 2018

TIME: 2:00 PM, Pacific Time

PLACE: Clackamas County Procurement Division
Clackamas County Public Services Building
2051 Kaen Road, Oregon City, OR 97045

SCHEDULE

Request for Proposals Issued.....	September 12, 2018
Protest of Specifications Deadline.....	September 19, 2018, 5:00 PM, Pacific Time
Deadline to Submit Clarifying Questions.....	October 3, 2018, 5:00 PM, Pacific Time
Request for Proposals Closing Date and Time.....	October 24, 2018, 2:00 PM, Pacific Time
Deadline to Submit Protest of Award.....	Seven (7) days from the Intent to Award
Anticipated Contract Start Date.....	January 1, 2019

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**SECTION 1
NOTICE OF REQUEST FOR PROPOSALS (RFP)**

Notice is hereby given that Clackamas County (“County”) through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, October 24, 2018** (“Closing”), to provide **Behavioral Health Peer Delivered Services**. No Proposals will be received or considered after that time.

As a result of this RFP, the County intends to enter into contracts for the eight (8) Behavioral Health Peer Delivered Services projects (“Project”) listed below in “Table 1.0” and further specified in “Section 3” of this RFP:

Table 1.0	
<i>Project</i>	<i>Not to Exceed 3.5 Year Budget</i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	\$142,000.00
Project 2: Adult Peer Delivered Services – Jail Support	\$426,000.00
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	\$532,500.00
Project 4: Adult Peer Delivered Services – Community Education	\$213,000.00
Project 5: Adult Peer Delivered Services – Villebois Community	\$710,000.00
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	\$439,500.00
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	\$342,500.00
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	\$287,500.00
*The “Not to Exceed 3.5 Year Budgets” amounts shall be included in proposal responses and shall not be construed to guarantee or represent the total contract value for any contracts that might result from this RFP.	

Each proposer entity shall only submit one proposal package in response to this RFP. This RFP is structured to allow proposer entities to include multiple Projects in one proposal package should they choose to do so. The resulting contract(s) from this RFP shall include a one and a half (1.5) year initial term with one (1) mutual renewal option for two (2) additional years.

Proposal packets are available from 7:00 AM to 6:00 PM Monday through Thursday at Clackamas County Procurement Division, Clackamas County Public Services Building, 2051 Kaen Road, Oregon City, OR 97045, telephone (503) 742-5444 or may be obtained at <http://www.clackamas.us/bids/>. Sealed Proposals are to be sent to Clackamas County Procurement Services – Attention George Marlton, Director at the above Kaen Road address. Sealed Proposals may be emailed to procurement@clackamas.us or sent to Clackamas County at the above Kaen Road address.

Contact Information

All communications with the County regarding this RFP shall only be directed to **Peter Madaus**, pmadaus@co.clackamas.or.us, (503) 742-5451.

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 bids from Minority, Women, 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. County will provide reasonable notice of its decision to all Proposers that have provided an address to the Procurement Division for this procurement. 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 the Bids and Contract Information page at <http://www.clackamas.us/bids/> for any published Addenda or response to clarifying questions.

2.5 Submission of Proposals: All Proposals must be submitted in a sealed envelope bearing on the outside, the name and address of the Proposer, the Project title, and Closing date/time. 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(s) in “Notice of Intent to Award” letter(s). Identification of the apparent successful Proposer(s) is procedural only and creates no right of the named Proposer(s) to award of the contract. Competing Proposer(s) will be notified in writing of the selection of the apparent successful Proposer(s) and shall be given seven (7) calendar days from the date on the “Notice of Intent to Award” letter 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. Written protests shall specify the Project(s) listed under Section 3 of this RFP to which the protest applies. 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(s) and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer(s); OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer(s) as nonresponsive, if such Proposer(s) is unable to demonstrate that its Proposal(s) complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name new apparent successful Proposer(s); OR
- c. reject all Proposals and cancel the procurement in whole, or with respect to any single Project or group of Projects named under Section 3 of this RFP.

2.7 Acceptance of Contractual Requirements: Failure of the selected Proposer(s) 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 192.501(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 192.501(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 192.500(1). 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(s) 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(s) are 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 Best and Final Offer: County may request best and final offers from those Proposers determined by County to be reasonably viable for contract award. However, County reserves the right to award a contract on the basis of initial Proposal received. Therefore, each Proposal should contain the Proposer's best terms from a price and technical standpoint. Following evaluation of the best and final offers, County may select for final contract negotiations/execution the offers that are most advantageous to County, considering cost and the evaluation criteria in this RFP.

2.28 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.

2.29 Intergovernmental Cooperative Procurement Statement: Pursuant to ORS 279A and LCRB, other public agencies shall have the ability to purchase the awarded goods and services from the awarded contractor(s) under terms and conditions of the resultant contract. Any such purchases shall be between the contractor and the participating public agency and shall not impact the contractor's obligation to County. Any estimated purchase volumes listed herein do not include other public agencies and County makes no guarantee as to their participation. Any Proposer, by written notification included with their

Proposal, may decline to extend the prices and terms of this solicitation to any and/or all other public agencies. County grants to any and all public serving governmental agencies, authorization to purchase equivalent services or products described herein at the same submitted unit bid price, but only with the consent of the contractor awarded the contract by the County.

**SECTION 3
SCOPE OF WORK**

3.1. INTRODUCTION

Clackamas County’s Behavioral Health Division (“Behavioral Health”) is seeking qualified programs and organizations to provide peer delivered support services in the areas of mental health and substance use. Services are to be provided within Clackamas County (“County”) and serving adults, children, youth, and families residing in the County or individuals moving to the County upon release from a correctional facility, juvenile detention facility, psychiatric or substance use treatment in-patient facility, or hospital. The County intends to enter into multiple contracts as a result of this solicitation.

In submitting a response to this RFP, the proposer certifies that paid staff providing services under any contract issued will be paid a living wage and receive appropriate benefits.

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

Since 2010, Behavioral Health has consistently worked to create a comprehensive Peer Delivered Services System of Care. We support a system of care that promotes a family’s and individual’s resiliency and recovery from mental health and substance use. Behavioral Health believes peer support is a critical element of recovery. Peer Services supports this system by ensuring individuals and families with children are empowered and drive the process of reaching and sustaining recovery, wellness, and resilience while building an inclusive community.

The outcome of this RFP process will be the availability of an array of peer delivered support services reaching a broad population of adults, youth and young adults in transition, family members and caregivers. These services will be provided to individuals and families who may also require support within other systems such as corrections, addictions, juvenile justice, child welfare, and others.

Please read this RFP carefully as Clackamas County seeks to fulfill several lines of peer support services. The Scopes of Work for each peer support service covered under this RFP are individually outlined in this Section. The peer support services are:

Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups
Project 2: Adult Peer Delivered Services – Jail Support
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic
Project 4: Adult Peer Delivered Services – Community Education
Project 5: Adult Peer Delivered Services – Villebois Community
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth
Project 7: Children and Families – Family Navigator / Emergency Room Diversion
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors

Proposers may submit a proposal for one or more of the above Projects. If Proposer submits a proposal for more than one Project, the proposal must be very clear and complete for each Project and follow instructions in Section 5.

3.3. SCOPE AND EXPECTATIONS FOR ALL PROJECTS

3.3.1. STAFF STANDARDS

Contractor shall complete the following for all staff:

- A successful criminal history records check through the State of Oregon Background Check Unit (“BCU”) compliant with ORS Chapter 181 and OAR 407-007-0000 to OAR 407-007-0370.
- Positive clearance through the General Services Administration System for Award Management (“SAM”) at time of hire and monthly thereafter; and
- Positive clearance through the Office of Inspector General’s (“OIG”) List of Excluded Individuals/Entities at time of hire and monthly thereafter.
- Review appropriate education and academic degrees;
- Review licenses or certificates, as required;
- Review relevant work history or qualifications;
- Document and certify that the staff’s education, experience, competence, and supervision are adequate to permit the staff to perform the assigned duties.

In addition, Contractor shall ensure all staff with direct one-on-one contact with the County residents:

- Complete Oregon Health Authority approved training program for Peer Delivered Services and adherence to all requirements in the Traditional Health Worker administrative rules including, OAR 410-180-0300 to OAR 410-180-0380.

County will provide technical assistance to Contractor on exclusion process through SAM and OIG, upon which time, the County will delegate to the Contractor the responsibility of exclusion checks. County may review Contractor’s adherence to exclusion checks during routine contract compliance monitoring.

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

In addition, Contractor shall not permit any person to provide services under this Contract who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101 “Program Integrity – Medicare and State Health Care Programs Subpart B”.

If Contractor is unable to adhere with requirements listed, Contractor shall communicate directly with Clackamas County’s Peer Services Coordinator a plan for meeting contract requirements.

3.3.1. REPORTING REQUIREMENTS

Behavioral Health’s Peer Delivered Services has developed the following general outcome measures that must be reported to the County on a quarterly basis.

Individuals Served:

- Number of individuals served during the reporting period.
- Number of new individuals served during the reporting period.
- Number of individuals who concluded support services during the reporting period.

Experience of Services:

- Does the individual feel they would have returned to a higher level of care or to a corrections setting if not for Peer Delivered Services?
- Does the individual feel their quality of life has improved overall?
- Has there been an increase in natural supports?

Training, Workshops, Support Groups:

- Number of continuing education/training programs or classes attended by Peer Support Specialists during the quarter.
- Number of workshops, support groups, or presentations provided for individuals receiving peer support services.
- Number of outreach activities conducted to inform and engage community partners and potential referral sources about the role of Peer Support Specialists and the Support Services available.

These reporting requirements will be included in any contract awarded. There may be additional reporting requirements dependent on the type of funding available for the contract and the specific type of peer support being provided through the contract. Please review the sample contract and exhibits associated with the program(s) for which you would like to propose to find additional reporting and related requirements.

3.4. PROJECT SPECIFIC SCOPE AND EXPECTATIONS

3.4.1. PROJECT 1: ADULT PEER DELIVERED SERVICES – DUAL DIAGNOSIS SUPPORT GROUPS

Budget:

\$142,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults with mental health and addictions seeking recovery support in a group setting.

Service Components:

Please provide a plan for providing the following services/supports:

- Comprehensive and current referral network with community agencies and system partners through an outreach specialist to promote recovery support groups
- Monthly fellowship meetings for group leaders.
- Maintenance of eight (8) or more chapters/groups that serve a minimum of 750 contacts throughout the duration of the contract.
- Supports/services including a focus on special populations, such as veterans.
- Ongoing outreach that includes dissemination of informational literature about meeting times, locations, and upcoming events.
- Workshops/trainings/support groups that will be available as well as opportunities for leadership development provided through the organization for those individuals being served.

3.4.2. PROJECT 2: ADULT PEER DELIVERED SERVICES – JAIL SUPPORT

Budget:

\$426,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults residing in Clackamas County Jail seeking recovery support for substance use and may also have co-occurring mental health issues.

Service Components:

Please provide a plan for providing the following services/supports:

- Weekly support groups, workshops and/or recovery curriculum within Clackamas County Jail.
- Collaborative work processes with the County services to begin engagement and access services and resources when appropriate.
- Workshops/trainings/support groups that will be available, as well as opportunities for leadership development provided through the organization for those individuals being served once they have been released from jail
- Peer support services within the jail.

Staffing:

- 1.0 FTE for a Lead Peer Recovery Mentor.
- 1.5 FTE Peer Support Specialists (PSS). At least one PSS must be male.

3.4.3. PROJECT 3: ADULT PEER DELIVERED SERVICES – CLACKAMAS COUNTY CRISIS CLINIC

Budget:

\$532,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults with mental health or co-occurring mental health and addiction who are seeking services through the County's crisis mental health walk-in clinic located in Clackamas County, OR.

Service Components:

Please provide a plan for providing the following services/supports:

- Cooperative work processes with the County to promote a recovery oriented support system that focuses on hope, choice, personal responsibility, and self-determination.
- Supports for individuals experiencing:
 - Recurring hospitalizations
 - Frequent police contact
 - New diagnoses
 - Difficulty engaging with natural community supports
- Both 1:1 support and group support.

Staffing:

The peer support team will work in collaboration with service teams located at the County's crisis walk-in clinic. Work will be performed both on site at the crisis clinic and in the community.

- 2 – 0.8 FTE Peer Support Specialists
- 1 – 0.4 FTE Peer Supervisor

3.4.4. PROJECT 4: ADULT PEER DELIVERED SERVICES – COMMUNITY EDUCATION

Budget:

\$213,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Family members, caregivers, and individuals seeking mental health education and group support for themselves and/or their loved ones. Priority for participation and enrollment in programs shall be granted to County residents.

Service Components:

Please provide a plan for providing the following services/supports:

- Family member and caregiver support groups.
- Peer support groups.
- Public education and outreach through curriculum and educational programming.
- Information regarding community resources.
- A variety of peer activities.

3.4.5. PROJECT 5: ADULT PEER DELIVERED SERVICES – VILLEBOIS COMMUNITY

Budget:

\$710,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults living in supportive housing in the Villebois Community at Renaissance Court Apartments, Rain Garden Apartments, and The Charleston Apartments located in Wilsonville, OR.

Service Components:

Please provide a plan for providing the following services/supports:

- 1:1 peer support for residents requesting support.
- Assistance in crisis and eviction prevention.
- Referrals to community resources.
- Coordination and facilitation of various group activities based on input from residents.

Staffing:

- 2 FTE Peer Wellness Specialist

3.4.6. PROJECT 6: TRANSITION AGE YOUTH PEER DELIVERED SERVICES – AFTER SCHOOL DROP IN FOR LGBTQ+ YOUTH

Budget:

\$439,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Provide support services to youth/young adults between the ages of 14-20 years who identify as lesbian, gay, bisexual, transgender, queer, intersex (“LGBTQI”).

Service Components:

Please provide a plan for providing the following services/supports:

- Collaborative work processes with the County to promote a support system that focuses on hope, choice, personal responsibility, and self-determination.
- Support and coordination to high schools and middle schools within the County for the development of Gay Straight Alliances (“GSA”).
- Coordination of an annual GSA summit.
- A minimum of (1) one day per week drop-in programming for LGBTQI youth/young adults.

Additional Questions:

Please describe:

- The process used to develop GSA’s within schools.
- Drop-in programming that will be offered.
- Any activities available to youth/young adults including workshops, trainings, leadership development, and social activities that will be available and provided by the organization.

3.4.7. PROJECT 7: CHILDREN AND FAMILIES – FAMILY NAVIGATOR / EMERGENCY ROOM DIVERSION

Budget:

\$342,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Provide support to families entering the Emergency Department (“ED”) within the County for a child experiencing a mental health crisis.

Service Components:

Please provide a plan for providing the following services/supports:

- Assistance, attendance and/or participation in supportive services for parents/caregivers navigating ED services.
- System navigation services and supports.
- Ongoing local resource information for families to access independently.
- Support of the development of and connection of families to natural supports within their community.
- Family Navigator will be required to collaborate closely with hospital systems and other system partners.

Staffing:

- 1.0 FTE Family Navigator

3.4.8. PROJECT 8: ADULT PEER DELIVERED SERVICES – PEER SUPPORT FOR OPIOID OVERDOSE SURVIVORS

Budget:

\$287,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults having recently survived an opioid overdose that require a response by emergency medical services in the County.

Service Components:

Please provide a plan for providing the following services/supports:

- 1:1 peer support for recent survivors of an opioid overdose who may or may not currently be in recovery
- Referrals to community resources
- “Bridging services” to those wanting to access treatment and other recovery supports
- SUD system navigation supports
- Assistance to individuals in identifying wellness and recovery goals
- Document supports provided to each individual
- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

Staffing:

This position collaborate and works closely with the HOPE Team (<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center (<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

3.5. TERM OF CONTRACT:

The term of the contract shall be from the effective date through **June 30, 2020** with the option for one (1) additional two (2) year renewal thereafter subject to the mutual agreement of the parties.

Throughout the term of the resulting contracts, the funding sources for the Project may increase or decrease. As applicable to each Project, the County reserves the right to issue amendments to the resulting contracts and either increase or decrease the budget and thereby adjust the service level accordingly. Any such decrease or increase shall also take into account the need for services, performance under the contract, and other factors related to the County’s best interest.

The fees proposed shall be fixed for the initial term of the contract (through June 30, 2020). For the renewal discussions, the County may consider a budgetary increase limited to the percentage reflected by the latest measurement of the Consumer Price Index, West Region (<https://www.bls.gov/regions/west/home.htm>). The County’s budgetary increase considerations may include factors such as availability of funding, the County’s best interest, and other factors as determined by the County.

3.6. 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 Professional Services Contract for this RFP can be found at <http://www.clackamas.us/bids/terms.html>.

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

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

- Article I, Paragraph 4 – Travel and Other Expense is Authorized
- Article II, Paragraph 29 – Confidentiality
- Article II, Paragraph 29 – Criminal Background Check Requirements
- Article II, Paragraph 30 – Key Persons
- Exhibit A – On-Call Provision

Any contracts resulting from this RFP shall include insurance requirements which shall meet or exceed any and all applicable requirements as set forth in the below exhibits:

- Exhibit A Definitions (CMHP)
- Exhibit B Definitions (OHP)
- Exhibit C Insurance (CMHP)
- Exhibit D Insurance (OHP)
- Exhibit E CMHP Required Provider Contract Provisions
- Exhibit F CHMP Required Federal Terms & Conditions
- Exhibit G OHP Required Federal Terms & Conditions
- Exhibit H CMHP Service Element – MHS 20
- Exhibit I CMHP Service Element – MHS 37 EDD
- Exhibit J CMHP Service Element – MHS 25
- Exhibit K CMHP Service Element – MHS 66
- Exhibit L Performance Standards
- Exhibit M Certification Statement for Independent Contractor
- Exhibit N Qualified Service Organization Business Associate Agreement
- Exhibit O Business Associate Agreement
- Exhibit P CMHP Service Element MHS 37 Jail Diversion

CONTRACT EXHIBITS FOR EACH PROJECT

Project	Required Exhibits
1. Adult Peer Delivered Services – Dual Diagnosis Support Groups	A, C, E, F, K, L, M, N, P, Q
2. Adult Peer Delivered Services – Jail Support	A, C, E, F, K, L, M, N, P, Q
3. Adult Peer Delivered Services – Clackamas County Crisis Clinic	A, C, E, F, J, L, M, N, P, Q, R
4. Adult Peer Delivered Services – Community Education	B, D, G, L, M, O, P, Q
5. Adult Peer Delivered Services – Villebois Community	A, C, E, F, H, L, M, N, P, Q
6. Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	B, D, G, L, M, N, P, Q
7. Children and Families – Family Navigator / Emergency Room Diversion	A, C, E, F, I, L, M, N, P, Q
8. Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	B, D, G, L, M, N, P, Q

All Exhibits are subject to change and/or amendment (e.g., as required by County’s funding sources).

**SECTION 4
EVALUATION PROCEDURE**

4.1 An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals independently by Project in accordance with the below criteria. The evaluation committee may recommend awards on a Project-by-Project basis 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 for each Project. 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 contracts 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 different Proposers, 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>
General Information (Section 5.4.)	0-30
Program Design (Section 5.5. A.)	0-40
Workshops/Support Groups/Training (Section 5.5. B.)	0-40
Staffing Plan and Development (Section 5.5. C.)	0-35
Quality Assurance (Section 5.5. D.)	0-30
Budget (Section 5.5. E.)	0-25
Available points	0-200

4.3 Once selections have been made, the County will enter into contract negotiations. During negotiations, 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 contracts. The negotiations will identify a level of work and associated fee that best represent the efforts required. If the County is unable to come to terms with the highest scoring Proposer for each Project, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple Projects and the County deems it is in its interest to not authorize any particular Project, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer for each Project.

**SECTION 5
PROPOSAL CONTENTS**

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

5.1.1. Complete Proposals may be mailed to the below address or 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 the Proposal is mailed, an original copy and an electronic copy (on compact disk or jump drive) must be included. The Proposal (hardcopy or email) must be received by the Closing Date and time indicated in Section 1 of the RFP.

5.1.2. Mailing address including Hand Delivery, US Mail, UPS and FEDEX:

Clackamas County Procurement Division – Attention George Marlton, Director
Clackamas County Public Services Building
2051 Kaen Road
Oregon City, OR 97045

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.

5.2. PROPOSALS

Provide in order the information as specified in sections 5.3., 5.4., 5.5., 5.6., 5.7., and 5.8. below:

5.3. PROPOSED PROJECT(S) COVER PAGE

Using the following table format, indicate which Project or Projects are included in your proposal:

<i>Project</i>	<i>Included in Proposal*</i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	
Project 2: Adult Peer Delivered Services – Jail Support	
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	
Project 4: Adult Peer Delivered Services – Community Education	
Project 5: Adult Peer Delivered Services – Villebois Community	
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	
<i>*Any mark in this column, such as a checkmark or an “X”, indicates that the Project listed in the corresponding row shall be included in the Proposal. Blank rows in this column shall indicate that the Project listed in the corresponding row shall not be included in the proposal. The County shall, at its sole discretion, determine which Project or Projects are included with each proposal.</i>	

5.4. General Information (0-30 Points, Page Limit 3 pages plus Organizational Chart)

Proposals must include the following general organizational information. **Proposals that include more than one Project shall only include one (1) “General Information” response.** Please describe or provide

- Organization’s mission statement and organizational goals.
- Organization’s history, relevant experience and capacity to provide peer support services of similar scope and type to those listed in the projects included in your proposal.

- Current relationships with system partners your organization may have such as, police, hospitals, and other community support organizations as relevant to the Projects included in your proposal.
- Ability, if any, to document services electronically.
- Organizational Chart and a clear description of the management and governance of the organization.
(include as attachment)

5.5. Service Information:

Proposals must include the following information related to the provision of peer delivered support services. **Proposals that include more than one Project must include a separate response to section “5.5 A.”, “5.5 B.” and “5.5 E.” for each Project that the proposal includes.** For example, a proposal that includes two (2) Projects, must include two (2) separate responses (one for each Project) including the information as specified in section “5.5 A.”, “5.5 B.”, and “5.5 E.”.

A. Program design, strategy, and capacity (0-40 Points, Page limit 4)

Please describe the following:

- Where services would be provided in Clackamas County.
- The peer support philosophy including the rationale and research used to support the model.
- The plan and/or planning process used to ensure the scope of individual peer services and supports are defined and driven by the individual receiving the support.
- Any training provided and/or certification(s) of peer support staff, paid or unpaid.
- How you identify the target population to be served (i.e. children, youth/young adults in transition, adults, families, older adults), experience serving this population and capacity to serve the population, including the number of individuals and/or families to be served.
- Your organization's ability to provide culturally-responsive services including services to persons whose primary language may not be English.

B. Workshops, Support Groups, and Training (0-40 Points, Page limit 3)

Please describe the following:

- Any workshops the organization is able to provide for people receiving support services or for the broader community. These workshops may include, but are not limited to, classes providing education on specific mental health diagnosis; informational classes on community resources; supportive employment or housing; alternative pathways to recovery, etc.
- Support groups the organization is able to provide for people receiving support services or to the broader community. These groups may include, but are not limited to Hearing Voices groups; AA, NA, DDA, or other anonymous groups supporting sobriety; group support for depression, anxiety, and other mental health conditions, etc.
- Trainings offered by the organization that benefits the peer support specialist workforce. These trainings may include, but are not limited to, training to become a peer support specialist; trauma informed approaches to peer support; leadership skill building; system navigation, etc.

C. Staffing Plan and Development (0-35 Points, Page limit 3)

Please describe the following:

- Supervision procedures and support for staff, both paid and unpaid.
- How your organization identifies and assures that peer providers have lived experience relevant to the role of peer providers.
- Opportunities for peer providers to network and receive support from other peer providers.

- How your organization promotes self-care and provides specific accommodations when necessary.
- Job descriptions of those providing direct services as well as their direct supervisors.
- Plan for training and staff development.

D. Quality Assurance (0-30 Points, Page limit 3)

Please describe the following:

- Organizational outcome measures, if established, and how are they measured and monitored
- Organization’s process for protecting client confidentiality. Do you have a written policy addressing this topic?
- Organization’s process for handling internal and external grievances. Do you have a written policy addressing this topic?
- Organization’s process for ensuring continuous quality improvement.
- Plan for organizational sustainability.

E. Budget Proposal (0-25 Points, Page limit 2)

Please complete and submit **one provided “Budget Form” for each proposed Project** (e.g., if your proposal includes two (2) Projects, complete two separate budget forms - one for each Project). An electronic version of the “Budget Form” can be found at the following website:

<https://www.clackamas.us/bids>

Each budget form shall only include the proposer’s budget to deliver one Project. Budget forms shall not reflect the costs that assume multiple Projects have been awarded. If multiple Projects are awarded to a single proposer, any resulting budgetary adjustments shall be made in the course of contract negotiations. Please review the sample contract and exhibits applicable to the Project(s) included in your proposal to guide the formation of your budget. For example, if exhibits applicable to your proposed Projects include allowable cost requirements, you might review them to ensure that your budget reflects a spending plan that is compliant with allowable cost requirements.

5.6. Fees

Please complete and submit the provided Budget Form. List the not-to-exceed amount you propose for each category indicated in the form. Monthly fees under contracts resulting from this RFP shall be calculated by dividing the budget for the initial contract term by the number of months it encompasses. Fees for renewed contracts resulting from this RFP will be calculated according to renewal negotiations and/or the conditions outlined in “Section 1” of this RFP.

5.7. References

Provide up to three (3) references from clients your firm has served similar to the County, preferably in the past three (3) years, for whom Proposer has provided services that are similar in nature to those included in your organization’s proposal. Provide the name, address, email, and phone number of the references.

5.8. Completed Proposal Certification (see the below form)

REQUEST FOR PROPOSALS #2018-45
Behavioral Health Peer Delivered Services
ADDENDUM NUMBER 1
September 27, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #1. Except as expressly amended below, all other terms and conditions of the original RFP shall remain unchanged.

The following changes are made to Section 3.4.8

1. Service Components: Remove in its entirety the following bullet point on page twelve (12) of the RFP:

- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

And replace with the following:

- Collaborating with diverse stakeholders in the community and others within the Health, Housing, and Human Services Department.

2. Staffing: Remove and replace in its entirety the following on page twelve (12) of the RFP:

This position collaborate and works closely with the HOPE Team (<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center (<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

And replace with the following:

- 1.0 FTE Peer Support Specialist in recovery from an opioid addiction and preferably with mental health lived experience.
- This position is partnered with a community paramedic team and will be working with American Medical Response, Inc. and Clackamas Fire.

End of Addendum #1

REQUEST FOR PROPOSALS #2018-45
 Behavioral Health Peer Delivered Services
 ADDENDUM NUMBER 2
 October 2, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #2. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The “CONTRACT EXHIBITS FOR EACH PROJECT” tables found in Section 3.6 on page 14 and Section 6.0.1 on page 21 of the RFP are hereby removed and replaced by the following:

CONTRACT EXHIBITS FOR EACH PROJECT	
Project	Required Exhibits
9. Adult Peer Delivered Services – Dual Diagnosis Support Groups	A, C, E, F, K, L, M, N
10. Adult Peer Delivered Services – Jail Support	A, C, E, F, K, L, M, N
11. Adult Peer Delivered Services – Clackamas County Crisis Clinic	A, C, E, F, J, L, M, N, P
12. Adult Peer Delivered Services – Community Education	B, D, G, L, M, O
13. Adult Peer Delivered Services – Villebois Community	A, C, E, F, H, L, M, N
14. Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	B, D, G, L, M, N
15. Children and Families – Family Navigator / Emergency Room Diversion	A, C, E, F, I, L, M, N
16. Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	B, D, G, L, M, N

End of Addendum #2

REQUEST FOR PROPOSALS #2018-45
Behavioral Health Peer Delivered Services
ADDENDUM NUMBER 3
October 24, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #3. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP Closing Date and Time is hereby changed from October 24, 2018 at 2:00 PM, Pacific Time to October 29, 2018 at 2:00 PM, Pacific Time. This change hereby amends all applicable references to the Closing Date and Time found in RFP #2018-45.

End of Addendum #3

REQUEST FOR PROPOSALS #2018-45
Behavioral Health Peer Delivered Services
ADDENDUM NUMBER 4
November 7, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”), on September 27, 2018 published Addendum #1, on October 3, 2018 published Addendum #2, and on October 24, 2018 published Addendum #3. The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #4. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP is hereby amended to remove all references to Project 7: Children and Families – Family Navigator / Emergency Room Diversion and Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors.

It is the County’s intent to promptly re-issue an RFP for Projects 7 and 8.

End of Addendum #4

**ATTACHMENT B
VENDOR'S RESPONSE TO RFP**

EXHIBIT A DEFINITIONS (CMHP)

Whenever used in this Contract, the following terms shall have the meanings set forth below:

“Allowable Costs” means the costs described in 2 CFR Part 200 or 45 CFR Part 75, as applicable, except to the extent such costs are limited or excluded by other provisions of this Contract.

“AMH” means the former Addictions & Mental Health Division of the State of Oregon, now known as the Department of Human Services of the State of Oregon (DHS).

“Client” or “Individual” means with respect to a particular service provided by Contract any individual receiving that service, in whole or in part, with funds provided under this Contract.

“Community Mental Health Program” or “CMHP” means a centrally organized and coordinated program of services for persons with mental and emotional disorders, developmental disabilities, and addiction dependencies operated by, or contractually affiliated with a LMHA and operated in a specific geographic area of the State of Oregon.

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

“Contractor” means the entity contracted by the County.

“Coordinated Care Organizations” or “CCO” means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414-625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization’s members.

“County” means Clackamas County, a political subdivision of the State of Oregon.

“DHS” means the Department of Human Services of the State of Oregon, formerly known as the Addictions & Mental Health Division (AMH).

“Intergovernmental Agreement” means the 2017-2019 Intergovernmental Agreement for the Financing of Community Addictions and Mental Health Services between the State of Oregon, acting by and through its Oregon Health Authority and Clackamas County, as amended from time to time.

“LMHA” means Local Mental Health Authority.

“Measures and Outcomes Tracking System” or “MOTS” means the DHS (formally AMH) data system that stores client data submitted by Contractor and/or County.

“Mental Health Services” means treatment Services for Individuals diagnosed with serious mental health illness, or other mental or emotional disturbance, posing a danger to the health and safety of themselves or others.

“OAR” means the Oregon Administrative Rules as promulgated by the Oregon Health Authority and as amended from time to time.

“Oregon Health Authority” or “OHA” means the agency within the State of Oregon that is responsible for substance use disorders services, problem gambling prevention and treatment services, children and adult

mental health services, and maintaining custody of persons committed to the state, by courts, for care and treatment of mental illness.

“OWITS” means Oregon Web Infrastructure for Treatment Services, an optional free electronic health records systems.

“Provider” means a person or entity providing the particular Services, or portion thereof, in this Agreement.

“Provider Contract” or “Provider Agreement” means this Contract or a subcontract to purchase the particular Services, or a portion thereof, in this Contract.

“Trauma Informed Services” means Services that are reflective of the consideration and evaluation of the role that trauma plays in the lives of people seeking mental health and substance use disorders Services, including recognition of the traumatic effect of misdiagnosis and coercive treatment. Services are responsive to the vulnerabilities of trauma survivors and are delivered in a way that avoids inadvertent re-traumatization and facilitates individual direction of services.

EXHIBIT C
INSURANCE (CMHP)

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

1. Workers Compensation. Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126. Contractors shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

2. Professional Liability. **Required by County** **Not required by County**

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages because of personal injury, bodily injury, death, or damage to property caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

If this box is checked Professional Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate.

3. General Liability. **Required by County** **Not required by County**

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage for the protection of the **County and the State of Oregon, and its officers, elected officials, agents, and employees.** It shall include contractual liability coverage for the indemnity provided under this Contract.

If this box is checked General Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

4. Automobile Liability. **Required by County** **Not required by County**

Commercial Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury, Death, and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

Commercial Automobile Liability insurance limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

Personal Automobile Liability insurance limits shall be not less than \$250,000/occurrence, \$500,000/aggregate, and \$100,000/property damage.

5. Physical Abuse and Molestation Liability. **Required by County** **Not required by County**

Physical Abuse and Molestation Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. Coverage shall be provided through either general liability or professional liability coverage. Proof of Sex Abuse/Molestation insurance coverage must be provided.

6. **Privacy and Network Security.** **Required by County** **Not required by County**

Privacy and Network Security coverages shall be obtained and maintained to provide protection against liability for (a) system attack; (b) denial or loss of service attacks; (c) spread of malicious software code; (d) unauthorized access and use of computer systems; and (e) liability from the loss or disclosure of confidential data with limit of \$1,000,000 per claim/annual aggregate.

If this box is checked Privacy and Network Security limit shall be at least \$4,000,000.

7. **Additional Insured Provision.** The insurance, other than Professional Liability (except to the extent it only applies to Commercial General Liability exposures), Workers' Compensation, Personal Automobile Liability and Pollution Liability Insurance, shall include **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees** as an additional insured.

8. **Primary Coverage Clause.** Contractor's insurance shall apply as primary and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above. This must be noted on the insurance certificate.

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

10. **"Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Contract, for a minimum of twenty-four (24) months following the later of: (i) the Contractor's completion and County's acceptance of all Services required under the Provider Contract; or (ii) the expiration of all warranty periods provided under the Contract. Notwithstanding the foregoing 24-month requirement, if the Contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the Contractor may request and County may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If County approval is granted, the Contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

11. **Self-insurance.** Contractor may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that Contractor's self-insurance program complies with all applicable laws, provides coverage equivalent in both type and level to that required in this Exhibit, and is reasonably acceptable to County. Contractor shall furnish an acceptable insurance certificate to County for any insurance coverage required by this Contract that is fulfilled through self-insurance. Stop-loss insurance and reinsurance coverage against catastrophic and unexpected expenses may not be self-insured.

12. **Certificates of Insurance.** Contractor shall furnish evidence of the insurance required in this Contract. Contractor will maintain the insurance in full force throughout the duration of this Contract. No Contract shall be in effect until the required certificates have been received, approved, and accepted by County. A renewal certificate will be sent to County ten (10) days prior to coverage

expiration. The insurance for general liability and commercial automobile liability must include an endorsement naming **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees** as additional insureds with respect to the Work under this Contract. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

Clackamas County, 2051 Kaen Road, Suite 154, Oregon City, Oregon 97045

Certificates of Insurance should be submitted electronically or by mail to:

BHcontracts@clackamas.us

Clackamas County
Contracts Administration
2051 Kaen Road, Suite 154
Oregon City, OR 97045

- 13. Insurance Carrier Rating.** Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the County. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 14. Waiver of Subrogation.** Contractor agrees to waive their rights of subrogation arising from the Work performed under this Contract.
- 15. Notice of cancellation or change.** There shall be no cancellation, material change, exhaustion of aggregate limits, reduction of limits, or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Behavioral Health Division, 2051 Kaen Road, Suite 154, Oregon City, OR 97045 or BHcontracts@clackamas.us.
- 16. Insurance Compliance.** The County will be entitled to enforce Contractor compliance with the insurance requirements, and will take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force, terminating the Contract as permitted by the Contract, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a Contractor to work under this Contract when the County is aware that the Contractor is not in compliance with the insurance requirements.

EXHIBIT E
CMHP REQUIRED PROVIDER CONTRACT PROVISIONS

1. **Expenditure of Funds.** Contractor may expend the funds paid to Contractor under this Contract solely on the delivery of contracted services subject to the following limitations (in addition to any other restrictions or limitations imposed by this Contract):
 - a) Contractor may not expend on the delivery of Services any funds paid to Contractor under this Contract in excess of the amount reasonable and necessary to provide quality delivery of these Services.
 - b) If this Contract requires Contractor to deliver more than one service, Contractor may not expend funds paid to Contractor under this Contract for a particular service on the delivery of any other service.
 - c) If this Contract requires Contractor to deliver Substance Use Disorders and Problem Gambling Services, Contractor may not use the funds paid to Contractor under this Contract for such services to:
 - 1) Provide inpatient hospital services;
 - 2) Make cash payments to intended recipients of health services;
 - 3) Purchase or improve land, to purchase, construct or permanently improve (other than minor remodeling) any building or other facility or to purchase major medical equipment;
 - 4) Satisfy any requirement for expenditure of non-federal funds as a condition for receipt of federal funds (whether the federal funds are received under this Contract or otherwise); or
 - 5) Carry out any program prohibited by section 245(b) of the Health Omnibus Programs Extension Act of 1988 (codified at 42 U.S.C. 300ee-5), which generally prohibits funds provided under this Contract from being used to provide Individuals with hypodermic needles or syringes so that such Individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse.
 - d) Contractor may expend funds paid to Contractor under this Contract only in accordance with OMB Circulars or 45 CFR Part 75, as applicable on Allowable Costs. If Contractor expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, it shall have a single organization-wide audit conducted in accordance with the provisions of 45 CFR part 75, subpart F. If Contractor expends less than \$750,000 in a fiscal year beginning on or after that date, it is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials. Contractor, if subject to this requirement, shall at Contractor's own expense submit to OHA a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to OHA the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Contractor responsible for the financial management of funds received under this Contract. Copies of all audits must be submitted to OHA within thirty (30) calendar days of completion. Audit costs for audits not required in accordance with the Single Audit Act are unallowable. Contractor may not use the funds received under this Contract for inherently religious activities, as described in 45 CFR Part 87.
2. **Records Maintenance, Access and Confidentiality.**
 - a) **Access to Records and Facilities.** County, the Oregon Health Authority, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of

Contractor that are directly related to this Contract, the funds paid to Contractor hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, Contractor shall permit authorized representatives of County and the Oregon Health Authority to perform site reviews of all services delivered by Contractor hereunder.

- b) **Retention of Records.** Contractor shall retain and keep accessible all books, documents, papers, and records, that are directly related to this Contract, the funds paid to Contractor hereunder or to any services delivered hereunder, for a minimum of 6 years, or such longer period as may be required by other provisions of this Contract or applicable law, following the termination or expiration of this Contract. If there are unresolved audit or other questions at the end of the six-year period, Contractor shall retain the records until the questions are resolved.
- c) **Expenditure Records.** Contractor shall document the expenditure of all funds paid to Contractor under this Contract. Unless applicable federal law requires Contractor to utilize a different accounting system, Contractor shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit County and the Oregon Health Authority to verify how the funds paid to Contractor under this Contract were expended.
- d) **Client Records.** Unless otherwise specified in this Contract, Contractor shall create and maintain a client record for each client who receives services under this Contract. The client record must contain:
 - 1) Client identification;
 - 2) Problem assessment;
 - 3) Treatment, training and/or care plan;
 - 4) Medical information when appropriate; and
 - 5) Progress notes including service termination summary and current assessment or evaluation instrument as designated by the Oregon Health Authority in administrative rules.

Contractor shall retain client records in accordance with OAR 166-150-0005 through 166-150-0215 (State Archivist). Unless OAR 166-150-0005 through 166-150-0215 requires a longer retention period, client records must be retained for a minimum of six years from termination or expiration of this Contract.

- e) **Safeguarding of Client Information.** Contractor shall maintain the confidentiality of client records as required by applicable state and federal law, including without limitation, ORS 179.495 to 179.507, 45 CFR Part 205, 42 CFR Part 2, any administrative rule adopted by the Oregon Health Authority, implementing the foregoing laws, and any written policies made available to Contractor by County or by the Oregon Health Authority. Contractor shall create and maintain written policies and procedures related to the disclosure of client information, and shall make such policies and procedures available to County and the Oregon Health Authority for review and inspection as reasonably requested by County or the Oregon Health Authority.
- f) **Data Reporting.** All Individuals receiving Services with funds provided under this Contract must be enrolled and that Individual's record maintained in the Measures and Outcome Tracking System (MOTS) as specified in OHA's MOTS Reference Manual, located at: <http://www.oregon.gov/oha/amh/mots/Pages/resource.aspx>, and the "Who Reports in MOTS Policy," as stated below:

Which Behavioral Health Providers are Required to Report in MOTS?

The data collection system for the Health Systems Division (HSD) is the Measures and Outcomes Tracking System or MOTS. In general, behavioral health providers who are either licensed or have a letter of approval from the HSD (or the former Addictions & Mental Health Division [AMH]), and receive public funds to provide treatment services are required to report to MOTS. In addition to the general rule above, there are four basic ways to classify who is required to submit data to MOTS:

- 1) Providers with HSD Agreements that deliver treatment services (this includes Community Mental Health Programs [CMHP], Local Mental Health Authorities [LMHA] and other types of community behavioral health providers); These programs should all have a license or letter of approval from the HSD or AMH;
- 2) Providers that are subcontractors (can be a subcontractor of a CMHP or other entity that holds a contract with HSD or OHA, such as a Mental Health Organization [MHO], or a Coordinated Care Organization [CCO]);
- 3) Providers that HSD does not contract with but are required to submit data to MOTS by State/Federal statute or rule; These include DUII providers and methadone maintenance providers; and
- 4) Providers that contract with other governmental agencies (e.g., Oregon Youth Authority [OYA] or the Department of Corrections [DOC] to deliver mental health and/or substance abuse services).

Note: Primary care physicians that provide a single service on behalf of the CMHP are not required to report the MOTS status or service level data.

If you have questions, contact MOTS Support at MOTS.Support@state.or.us.

3. Alternative Formats of Written Materials. In connection with the delivery of Services, Contractor shall:

- a) Make available to a Client, without charge to the Client, upon the Client's, the County's or the Oregon Health Authority's request, any and all written materials in alternate, if appropriate, formats as required by the Oregon Health Authority's administrative rules or by the Oregon Health Authority's written policies made available to Contractor.
- b) Make available to a Client, without charge to the Client, upon the Client's, County's or the Oregon Health Authority's request, any and all written materials in the prevalent non-English languages in the area served by Contractor.
- c) Make available to a Client, without charge to the Client, upon the Client's, County's or the Oregon Health Authority's request, oral interpretation services in all non-English languages in the area served by Contractor.
- d) Make available to a Client with hearing impairments, without charge to the Client, upon the Client's, County's or the Oregon Health Authority's request, sign language interpretation services and telephone communications access services.

For purposes of the foregoing, "written materials" includes, without limitation, all written materials created or delivered in connection with the services and all Contractor contracts related to this Contract. The County may develop its own forms and materials and with such forms and materials the County shall be responsible for making them available to a Client, without charge to the Client or OHA, in the prevalent non-English language. OHA shall be responsible for making its forms and materials available, without charge to the Client or CMHP, in the prevalent non- English language.

4. **Reporting Requirements.** Contractor shall prepare and furnish the following information to County and the Oregon Health Authority when a service is delivered under this Contract:
 - a) Client, service and financial information as specified in the applicable Service Description attached hereto and incorporated herein by this reference.
 - b) All additional information and reports that County or the Oregon Health Authority reasonably requests.

5. **Compliance with Law.** Contractor shall comply with all state and local laws, regulations, executive orders and ordinances applicable to the Contract or to the delivery of services hereunder. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract:
 - a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations;
 - b) all state laws governing operation of community mental health programs, including without limitation, all administrative rules adopted by the Oregon Health Authority related to community mental health programs or related to client rights, OAR 943-005-0000 through 943-005-0070, prohibiting discrimination against Individuals with disabilities;
 - c) all state laws requiring reporting of client abuse; and
 - d) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the delivery of services under this Contract.

These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. All employers, including Contractor, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. In addition, Contractor shall comply, as if it were County thereunder, with the federal requirements set forth in **Exhibit F** to the certain 2017-2019 Intergovernmental Contract for the Financing of Community Mental Health, Substance Use Disorders, and Problem Gambling Services between County and the Oregon Health Authority dated as of July 1, 2017, which Exhibit is incorporated herein by this reference. For purposes of this Contract, all references in this Contract to federal and state laws are references to federal and state laws as they may be amended from time to time.

6. Unless Contractor is a State of Oregon governmental agency, Contractor agrees that it is an independent contractor and not an agent of the State of Oregon, the Oregon Health Authority or County.

7. To the extent permitted by applicable law, Contractor shall defend (in the case of the state of Oregon and the Oregon Health Authority, subject to ORS Chapter 180), save and hold harmless the State of Oregon and Clackamas County, and their officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of or relating to the operations of the Contractor, including but not limited to the activities of Contractor or its officers, employees, subcontractors or agents under this Contract.

8. Contractor understands that Contractor may be prosecuted under applicable federal and state criminal and civil laws for submitting false claims, concealing material facts, misrepresentation, falsifying data system input, other acts of misrepresentation, or conspiracy to engage therein.
9. Contractor shall only conduct transactions that are authorized by the County for transactions with the Oregon Health Authority that involve County funds directly related to this Contract.
10. Contractor(s) that are not units of local government as defined in ORS 190.003 shall obtain, at Contractor's expense, and maintain in effect with respect to all occurrences taking place during the term of the Contract, insurance requirements as defined in this Contract and incorporated herein by this reference.
11. Contractor(s) that are not units of local government as defined in ORS 190.003, shall indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (Indemnitee) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of the officers, agents, employees or subcontractors of the contractor (Claims). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the Contractor from and against any and all Claims.
12. Contractor shall include sections 1 through 11, in substantially the form set forth above, in all permitted Contractor contracts under this Contract.
13. Ownership of Intellectual Property.
 - a) Except as otherwise expressly provided herein, or as otherwise required by state or federal law, OHA and the County will not own the right, title and interest in any intellectual property created or delivered by the Contractor in connection with the Services. With respect to that portion of the intellectual property that the Contractor owns, Contractor grants to OHA and the County a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Contract that restrict or prohibit dissemination or disclosure of information, to: (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property; (2) authorize third parties to exercise the rights set forth in Section 13.a.(1) on OHA and the County's behalf; and (3) sublicense to third parties the rights set forth in Section 13.a.(1).
 - b) If state or federal law requires that OHA or County grant to the United States a license to any intellectual property, or if state or federal law requires that OHA or the United States own the intellectual property, then Contractor shall execute such further documents and instruments as OHA may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or OHA. To the extent that OHA becomes the owner of any intellectual property created or delivered by Contractor in connection with the Services, OHA will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Contract that restrict or prohibit dissemination or disclosure of information, to Contractor to use, copy, distribute, display, build upon and improve the intellectual property.

EXHIBIT F
CMHP REQUIRED FEDERAL TERMS AND CONDITIONS

Contractor shall comply with the following federal requirements. For purposes of this Contract, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** Contractors shall comply with all federal laws, regulations, and executive orders applicable to the Contract or to the delivery of Services. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. No federal funds may be used to provide Services in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in U.S. Department of Labor regulations (41 CFR Part 60).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Contract, including amendments, exceeds \$150,000 Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C.1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to OHA, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Contractors shall include in all contracts with subcontractors receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.
- 4. Energy Efficiency.** Contractors 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 U.S.C. 6201 et.seq. (Pub. L. 94-163).
- 5. Truth in Lobbying.** By signing this Contract, Contractor certifies, to the best of the Contractor's knowledge and belief that:

 - a.** No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, 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 Contract, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative Contract.

- 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 Contractor shall complete and submit Standard Form LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions.
- c.** Contractor 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.
- d.** This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- e.** No part of any federal funds paid to Contractor under this Contract shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
- f.** No part of any federal funds paid to Contractor under this Contract shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- g.** The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h.** No part of any federal funds paid to Contractor under this Contract 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 or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

- 6. Resource Conservation and Recovery.** Contractor 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 U.S.C. 6901 et. seq.). Section 6002 of that Act

(codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

7. **Audits.** Subrecipients, as defined in 45 CFR 75.2, shall comply with applicable Code of Federal Regulations (CFR) governing expenditure of federal funds. If a sub-recipient expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, it shall have a single organization-wide audit conducted in accordance with the provisions of 45 CFR part 75, subpart F. Copies of all audits must be submitted to County within thirty (30) calendar days of completion. If a sub recipient expends less than \$750,000 in a fiscal year beginning on or after December 26, 2014, it is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials.
8. **Debarment and Suspension.** Contractor shall not permit any person or entity to be a provider if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Providers with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
9. **Drug-Free Workplace.** Contractor shall comply with the following provisions to maintain a drug-free workplace: (i) Contractor certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Contractor's workplace or while providing Services to OHA clients. Contractor's notice shall specify the actions that will be taken by Contractor against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Contractor's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of Services under this Contract a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Contract, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction; (v) Notify OHA within ten (10) calendar days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any provider to comply with subparagraphs through (vii) above; (ix) Neither Contractor, or any of Contractor's employees, officers, agents may provide any Service required under this Contract while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Contractor or Contractor's employee, officer, agent has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or Contractor's performance of

essential job function or creates a direct threat to OHA clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Contract.

10. **Pro-Children Act.** Contractor shall comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).
11. **Medicaid Services.** To the extent Contractor provides any Service in which costs are paid in whole or in part by Medicaid, Contractor shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
 - a. Keep such records as are necessary to fully disclose the extent of the services provided to Individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
 - b. Comply with all disclosure requirements of 42 CFR Part 1002.4(a) and 42 CFR 455 Subpart (B).
 - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396 (a) (57) and (w), 42 CFR Part 431.107 (b) (4), and 42 CFR Part 489 subpart I.
 - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Contractor shall acknowledge Contractor's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e. Entities receiving \$5 million or more annually (under this Contract and any other Medicaid agreement) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, providers, and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a (a) (68).
12. **ADA.** Contractor shall comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 U.S.C. 12131 et. seq.) in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the delivery of Services.
13. **Agency-Based Voter Registration.** If applicable, Contractor shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an Individual may apply for or receive an application for public assistance.
14. **Disclosure.**
 - a. 42 CFR 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (Individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an Individual, the

date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (Individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (Individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b. 42 CFR 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- c. County or OHA reserves the right to take such action required by law, or where County or OHA has discretion, it deems appropriate, based on the information received (or the failure to receive) from the provider, fiscal agent or managed care entity.

15. Special Federal Requirements Applicable to Substance Use Disorders Services for Agencies receiving Substance Abuse Prevention and Treatment (SAPT) Block Grant funds (CFDA 93.959).

- a. **Order for Admissions:**
 - (1) Pregnant women who inject drugs;
 - (2) Pregnant substance abusers;
 - (3) Other Individuals who inject drugs; and
 - (4) All others.
- b. **Women's or Parent's Services.** If Contractor provides A&D 61 and A&D 62 Services, Contractor must:
 - (1) Treat the family as a unit and admit both women or parent and their children if appropriate.
 - (2) Provide or arrange for the following services to pregnant women and women with dependent children:
 - (a) Primary medical care, including referral for prenatal care;
 - (b) Pediatric care, including immunizations, for their children;
 - (c) Gender-specific treatment and other therapeutic interventions, e.g. sexual and physical abuse counseling, parenting training, and child care;
 - (d) Therapeutic interventions for children in custody of women or parent in treatment, which address, but are not limited to, the children's developmental needs and issues of abuse and neglect; and
 - (e) Appropriate case management services and transportation to ensure that women or parents and their children have access to the

services in (a) through (d) above.

- c. **Pregnant Women.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services, Contractor must:
- (1) Within the priority categories, if any, set forth in a particular Service Description, give preference in admission to pregnant women in need of treatment, who seek or are referred for and would benefit from such Services, within 48 hours;
 - (2) If Contractor has insufficient capacity to provide treatment Services to a pregnant woman, Contractor must refer the women to another Provider with capacity or if no available treatment capacity can be located, the outpatient Provider that the Individual is enrolled with will ensure that Interim Services are being offered. Counseling on the effects of alcohol and drug use on the fetus must be given within 48 hours, including a referral for prenatal care; and
 - (3) Perform outreach to inform pregnant women of the availability of treatment Services targeted to them and the fact that pregnant women receive preference in admission to these programs.
- d. **Intravenous Drug Abusers.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services, Contractor must:
- (1) Within the priority categories, if any, set forth in a particular Service Description and subject to the preference for pregnant women described above, give preference in admission to intravenous drug abusers;
 - (2) Programs that receive funding under the grant and that treat Individuals for intravenous substance abuse, upon reaching 90 percent of its capacity to admit Individuals to the program, must provide notification of that fact to the State within 7 calendar days;
 - (3) If Contractor receives a request for admission to treatment from an intravenous drug abuser, Contractor must, unless it succeeds in referring the Individual to another Provider with treatment capacity, admit the Individual to treatment not later than:
 - (a) 14 calendar days after the request for admission to Contractor is made;
 - (b) 120 calendar days after the date of such request if no Provider has the capacity to admit the Individual on the date of such request and, if Interim Services are made available not less than 48 hours after such request; or
 - (c) If Contractor has insufficient capacity to provide treatment Services to an intravenous drug abuser, refer the intravenous drug abuser to another Provider with capacity or if no available treatment capacity can be located, the outpatient provider that the Individual is enrolled with will ensure that interim services are being offered. If the Individual is not enrolled in outpatient treatment and is on a waitlist for residential treatment, the provider from the Contractor of the Individual's residence that is referring the Individual to residential services will make available counseling and education about human immunodeficiency virus(HIV) and tuberculosis (TB), risk of sharing needles, risks of transmission to sexual partners and infant, steps to ensure HIV and TB transmission does not occur, referral for HIV or TB treatment services, if necessary, within 48 hours.
- e. **Infectious Diseases.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services Contractor must:
- (1) Complete a risk assessment for infectious disease including Human

- Immunodeficiency Virus (HIV) and tuberculosis, as well as sexually transmitted diseases, based on protocols established by OHA, for every Individual seeking Services from Contractor; and
- (2) Routinely make tuberculosis services available to each Individual receiving Services for alcohol/drug abuse either directly or through other arrangements with public or non-profit entities and, if Contractor denies an Individual admission on the basis of lack of capacity, refer the Individual to another provider of tuberculosis Services.
 - (3) For purposes of (2) above, “tuberculosis services” means:
 - (a) Counseling the Individual with respect to tuberculosis;
 - (b) Testing to determine whether the Individual has contracted such disease and testing to determine the form of treatment for the disease that is appropriate for the Individual; and
 - (c) Appropriate treatment services.
- f. OHA Referrals.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services, Contractor must, within the priority categories, if any, set forth in a particular Service Description and subject to the preference for pregnant women and intravenous drug users described above, give preference in Substance Use Disorders and Problem Gambling Service delivery to persons referred by OHA.
- g. Barriers to Treatment.** Where there is a barrier to delivery of any Substance Use Disorder and Problem Gambling Service due to culture, gender, language, illiteracy, or disability, Contractor shall develop support services available to address or overcome the barrier, including:
- (1) Providing, if needed, hearing impaired or foreign language interpreters.
 - (2) Providing translation of written materials to appropriate language or method of communication.
 - (3) Providing devices that assist in minimizing the impact of the barrier.
 - (4) Not charging clients for the costs of measures, such as interpreters, that are required to provide nondiscriminatory treatment.
- h. Misrepresentation.** Contractor shall not knowingly or willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or Services for which payments may be made by County or OHA.
- i. Oregon Residency.** Substance Use Disorders Services funded through this Contract, except for A&D 60 Problem Gambling Client Finding Outreach Services, A&D 80, A&D 81, A&D 82 and A&D 83, may only be provided to residents of Oregon. Residents of Oregon are Individuals who live in Oregon. There is no minimum amount of time an Individual must live in Oregon to qualify as a resident so long as the Individual intends to remain in Oregon. A child’s residence is not dependent on the residence of his or her parents. A child living in Oregon may meet the residency requirement if the caretaker relative with whom the child is living is an Oregon resident.
- j. Tobacco Use.** If Contractor has Substance Use Disorders Services treatment capacity that has been designated for children, adolescents, pregnant women, and women with dependent children, Contractor must implement a policy to eliminate smoking and other use of tobacco at the facilities where the Services are delivered and on the grounds of such facilities.
- k. Client Authorization.** Contractor must comply with 42 CFR Part 2 when delivering a Substance Use Disorder Service that includes disclosure of Client information for purposes of eligibility determination. Contractor must obtain Client authorization for disclosure of billing information, to the extent and in the manner required by 42 CFR Part 2, before a Disbursement Claim is submitted with respect to delivery of a Substance Use Disorder Service to that Individual.

16. **Community Mental Health Block Grant (CFDA 93.958).** All funds, if any, awarded under this Contract for Mental Health Services are subject to the federal use restrictions and requirements set forth in Catalog of Federal Domestic Assistance Number 93.958 and to the federal statutory and regulatory restrictions imposed by or pursuant to the Community Mental Health Block Grant portion of the Public Health Services Act, 42 U.S.C. 300x-1 *et. seq.*, and Contractor shall comply with those restrictions.
17. **Substance Abuse Prevention and Treatment (CFDA 93.959).** To the extent Contractor provides any Service in which costs are paid in whole or in part by the Substance Abuse, Prevention, and Treatment Block Grant, Contractor shall comply with federal rules and statutes pertaining to the Substance Abuse, Prevention, and Treatment Block Grant, including the reporting provisions of the Public Health Services Act (42 U.S.C. 300x through 300x-66) and 45 CFR 96.130 regarding the sale of tobacco products. Regardless of funding source, to the extent Contractor provides any substance abuse prevention or treatment services, Contractor shall comply with the confidentiality requirements of 42 CFR Part 2. CMHP may not use the funds received under this Contract for inherently religious activities, as described in 45 CFR Part 87.
18. **Information Required by 2 CFR Subtitle B with guidance at 2 CFR Part 200.** All required data elements in accordance with 45 CFR 75.352 are available at: <http://www.oregon.gov/oha/amh/Pages/federal-reporting.aspx>.

EXHIBIT I

MHS 37 – Emergency Department Diversion to Community-based Services and Supports

1. Service Description

Exhibit MHS 37 – Emergency Department Diversion to Community-based Services and Supports (Exhibit MHS 37 – EDD Services) are designed to provide a community-based alternative to Emergency Department admission for children, youth, and young adults (Individuals) presenting for, or at risk of, admission for psychiatric or behavioral crises. Program must serve all children, youth, and young adults who go to the Emergency Department (ED) for psychiatric crisis.

2. Performance Requirements

- a.** In addition to any other requirements that may be established by rule of the Oregon Health Authority, County shall, subject to the availability of funds, provide the following Services as appropriate to Individuals with mental or emotional disturbances:
- (1)** Screening and evaluation to determine the Individual’s Service needs;
 - (2)** Crisis stabilization to meet the needs of Individuals with acute mental or emotional disturbances, including the costs of investigations and prehearing detention in community hospitals or other facilities approved by OHA for Individuals involved in involuntary commitment procedures;
 - (3)** Vocational and social services that are appropriate for the Individual’s age, designed to improve the Individual’s vocational, social, educational, and recreational functioning;
 - (4)** Continuity of care to link the Individual to housing and appropriate and available health and social service needs;
 - (5)** Psychiatric care in state and community hospitals, subject to the provisions of the “Special Reporting Requirements” section below;
 - (6)** Residential services;
 - (7)** Medication monitoring;
 - (8)** Individual, family, and group counseling and therapy;
 - (9)** Public education and information;
 - (10)** Prevention of mental or emotional disturbances and promotion of mental health; and
 - (11)** Consultation with other community agencies.
- b.** Preventive mental health Services for Individuals, including primary prevention efforts, early identification, and early intervention Services. Preventive Services should be patterned after service models that have demonstrated effectiveness in reducing the incidence of emotional, behavioral, and cognitive disorders in children, youth, and young adults. As used in this paragraph:
- (1)** Early identification means detecting emotional disturbance in its initial developmental stage;
 - (2)** Early intervention services for Individuals at risk of later development of emotional disturbances means programs and activities for Individuals and their families that promote conditions, opportunities, and experiences that encourage

and develop emotional stability, self-sufficiency, and increased personal competence; and

- (3) Primary prevention efforts means efforts that prevent emotional problems from occurring by addressing issues early so that disturbances do not have an opportunity to develop.
- c. Eligible Population: Children, youth, and young adults ages birth through 24 years who have symptoms consistent with psychiatric or serious emotional disorders and present at partner Emergency Departments, particularly those Individuals without insurance or who are under insured.
- d. Clinical, Social, and Residential Services Provided: Exhibit MHS 37 – EDD Services programs are team-based, providing an array of recovery oriented agency or community-based Services and supports designed to:
- (1) Alleviate the immediate crisis, through connections to the family and Individual, and work with mental health team members;
 - (2) Provide relational and case management support for 60 calendar days; and
 - (3) Establish with the family and Individual a transition plan designed to prevent re-admission to the Emergency Department and improve access to community resources. Specific Services include, but are not limited to:
 - (a) Suicide intervention;
 - (b) Family and young adult peer support;
 - (c) Coordination of immediate resources;
 - (d) Rapid access to psychiatric and counseling services; and
 - (e) Transition planning to existing health and community resources.
- e. Pilot sites must participate in collaborative, state-wide efforts to establish shared programmatic standards, expectations for results and services, and key reporting requirements.
- f. Sites must ensure that staff are trained in trauma-informed approaches and crisis stabilization strategies.
- g. **Who Can Provide These Services?** Community Mental Health Staff, including the following:
- (1) Licensed Medical Professionals (psychiatrists or psychiatric nurse practitioners);
 - (2) QMHP/Therapists;
 - (3) Clinical Case Managers;
 - (4) Supported Employment/Education Specialists;
 - (5) Occupational Therapists;
 - (6) Young Adult Peer Support Specialists;
 - (7) Family Support Specialists; and
 - (8) Skill-development Specialists.

3. Reporting Requirements

All Individuals receiving Exhibit MHS 37 – EDD Services with funds provided through this Contract must be enrolled and that Individual’s record maintained in the Measures and Outcomes Tracking System (MOTS) as specified in OHA’s MOTS Reference Manual, located at:

<http://www.oregon.gov/OHA/HSD/AMH-MOTS/pages/resource.aspx>.

Contractor shall provide timely and relevant information to County as needed to enable County to submit reports to the State of Oregon on the delivery of all Services supported with funds provided through this Contract.

EXHIBIT L
PERFORMANCE STANDARDS

A. General Performance Standards

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

B. Staff Standards

Contractor will provide the following for all staff who are in direct contact with County clients:

- Completion of a successful criminal history records check through the Background Check Unit, a Shared Service of the Department of Human Services and the Oregon Health Authority and compliant with ORS 181A.200 and OAR 943-007-0001 to 943-007-0501;
 - Appropriate education and academic degrees;
 - Licenses or certificates, as required; and
 - Relevant work history or qualifications.

C. Monitoring

County shall monitor services provided by Contractor and has the right to require Contractor's compliance with established standards and performance requirements relative to the services provided, administrative and fiscal management, and with all obligations and conditions stated in this Contract.

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

D. Abuse Reporting

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

E. Confidentiality

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

EXHIBIT M
CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR
(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result;
AND
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- _____ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- _____ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- _____ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- _____ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- _____ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature _____

Date _____

Contractor Printed Name: _____

EXHIBIT N
QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT

This Qualified Service Organization Business Associate Agreement (“Agreement”) is entered into as of _____ (“Effective Date”) by and between **Clackamas County Health, Housing and Human Services, Behavioral Health Division** (“Covered Entity”), Health Centers Division Alcohol and Drug Treatment Program (“Program”) and **Oregon Family Support Network, Inc.** (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996 and its regulations (“HIPAA”), and Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2 (“Confidentiality Rule”).

RECITALS

Whereas, the Covered Entity has engaged the services of the Business Associate as defined under 45 CFR §160.103 for or on behalf of the Covered Entity;

Whereas, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement (“Services Agreement”);

Whereas, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;

Whereas, the Parties agree to establish safeguards for the protection of such information;

Whereas, the Covered Entity and Business Associate desire to enter into this Agreement to address certain requirements under the HIPAA Rules **and** the Confidentiality Rule;

Now, therefore, the parties hereby agree as follows:

SECTION I – DEFINITIONS

- 1.1 “Breach” is any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
 - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within a Workforce member’s course and scope of employment or placement;
 - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Workforce members; and
 - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Disclose” or “disclosure” shall have the meaning given to such terms under the Confidentiality Rule, 42 CFR §2.11.
- 1.5 “Effective Date” shall be the Effective Date of this Agreement.
- 1.6 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Agreement.

- 1.7 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.8 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.
- 1.9 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- 1.10 “Individually Identifiable Health Information” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §160.103.
- 1.11 “Program” shall have the meaning given to such term under the Confidentiality Rule, 42 CFR §2.11.
- 1.12 “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to an Individual; and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the HIPAA Rules, 45 CFR §160.103 and §164.501.
- 1.13 “Protected Information” shall mean PHI provided by the Covered Entity to Business Associate or created, maintained, transmitted or received by Business Associate on Covered Entity’s behalf.
- 1.14 “Qualified Service Organization” shall have the meaning defined under the Confidentiality Rule, 42 CFR §2.11.
- 1.15 “Required by Law” shall have the meaning given to such phrase in 45 CFR §164.103.
- 1.16 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- 1.17 “Security Incident” shall have the meaning given to such phrase in 45 CFR §164.304.
- 1.18 “Unsecured Protected Health Information” shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in accordance with 45 CFR §164.402.
- 1.19 Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is under the direct control of such Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate.

SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement;

- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI. Notwithstanding the preceding language of this subsection, Business Associate acknowledges that PHI obtained by the Business Associate relating to individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule. This information received from the Covered Entity, is protected by the Confidentiality Rule and therefore the Business Associate is specifically prohibited from re-disclosing such information to agents or subcontractors without specific written consent of the subject Individual;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
- 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.10 To comply with the confidentiality, disclosure and re-disclosure requirements of the Confidentiality Rule as applicable;
- 2.11 To resist any efforts in judicial proceedings any efforts to obtain access to the PHI protected by the Confidentiality Rule except as expressly provided for in the Confidentiality Rule;
- 2.12 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.13 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it

- provides such electronic PHI agrees to implement reasonable and appropriate security measures to protect the PHI. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
- 2.14 To retain records related to the PHI hereunder for a period of six (6) years unless this Agreement is terminated prior thereto. In the event of termination of this Agreement, the provisions of Section V of this Agreement shall govern record retention, return or destruction;
 - 2.15 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
 - 2.16 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

SECTION III – THE PARTIES AGREE TO THE FOLLOWING PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE:

- 3.1 The Covered Entity and the Business Associate agree that this Agreement constitutes a Qualified Service Organization Agreement as required by the Confidentiality Rule. Accordingly, information obtained by the Business Associate relating to Individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule.
- 3.2 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.3 Except as otherwise limited in this Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the Confidentiality or HIPAA Rules if done by the Covered Entity; and,
- 3.4 Except as otherwise limited in this Agreement, the Business Associate may:
 - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate so long as such use is also permitted by the Confidentiality Rule; and,
 - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further

disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. PHI that is also subject to the Confidentiality Rule cannot be disclosed to a third party except as permitted under the Confidentiality Rule.

SECTION IV – NOTICE OF PRIVACY PRACTICES

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. The Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by the Covered Entity, except as set forth in Section 3.3 above.

SECTION V – BREACH NOTIFICATION REQUIREMENTS

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
- a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
 - b. By notice in plain language including and to the extent possible:
 - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
 - 4) A brief description of what the Covered Entity and/or Business Associate involved is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
 - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
 - c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
 - d. Provided notice to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.
- 5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

SECTION VI – TERM AND TERMINATION

- 6.1 **Term.** The term of this Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI provided by the Covered Entity to the Business Associate, or created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- 6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Agreement if cure is not reasonably possible.
- If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.
- Upon the Business Associate's knowledge of a material breach of this Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Agreement and Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Agreement if the Covered Entity has breached a material term of this Agreement if cure is not reasonably possible.
- 6.3 **Effect of Termination.**
- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
- b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

SECTION VII – GENERAL PROVISIONS

- 7.1 **Regulatory references.** A reference in this Agreement to the Confidentiality Rule, HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.
- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification by Covered Entity.** Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution Covered Entity agrees to indemnify, defend and hold harmless the Business Associate and its employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Covered Entity’s breach of Section 4.1 of this Agreement. Accordingly, on demand, Covered Entity shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Covered Entity’s breach hereunder. Covered Entity’s obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.5 **Indemnification by Business Associate.** Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate’s breach of Section II and III of this Agreement. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Business Associate’s breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.6 **Survival.** The respective rights and obligations of Business Associate under Section II of this Agreement shall survive the termination of the Services Agreement and this Agreement.
- 7.7 **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to first comply with the Confidentiality Rule and second to comply with the HIPAA Rules.

(Signature Page for QSOBAA Follows)

Board of Commissioners
 Clackamas County

Members of the Board:

Approval of a Professional Services Contract with The Living Room
for Youth/Young Adult Peer Support Services

Purpose/Outcomes	Provides an afterschool drop-in program for gay, lesbian, bi-sexual, transgender, queer and questioning youth ages 14 to 20 in Clackamas County.
Dollar Amount and Fiscal Impact	Maximum contract value is \$439,500.
Funding Source	No County General Funds involved State of Oregon, Oregon Health Plan (OHP) funds
Duration	Effective January 1, 2019 through June 30, 2020 with an option to extend to June 30, 2022.
Previous Board Action	No previous Board action
Strategic Plan Alignment	1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals. 2. Ensure safe, healthy and secure communities.
Contact Person	Mary Rumbaugh, Director, Behavioral Health Division, 503-742-5305
Contract No.	#8146

Background

The Behavioral Health Division of the Health, Housing & Human Services Department (H3S) requests the approval of a Professional Services Contract with The Living Room. On September 12, 2018, a Request for Proposals (RFP) was issued for eight peer-delivered service programs. The RFP closed October 24, 2018, and The Living Room was selected by the review committee to be awarded a contract to provide Youth/Young Adult Peer Support Services through an afterschool drop-in program for gay, lesbian, bi-sexual, transgender, queer and questioning youth ages 14 to 20 in Clackamas County.

This contract, effective January 1, 2019 through June 30, 2020, with an option to extend to June 30, 2022, has a maximum value of \$439,500. County Counsel reviewed and approved the contract.

Recommendation

We recommend Board approval of this contract and authorization for Richard Swift to sign on behalf of the Clackamas County.

Respectfully submitted,

Richard Swift, Director
 Health, Housing and Human Services

Placed on the Agenda of _____ by the Procurement Division

Healthy Families. Strong Communities.



CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal Services Contract (this "Contract") is entered into between The Living Room ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of its Health Housing and Human Services Department ("H3S").

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective on January 1, 2019. Unless earlier terminated or extended, this Contract shall expire on June 30, 2020. 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. This Contract may be renewed for an additional two (2) year term upon the written agreement of both parties to this Contract.

2. Scope of Work. This Contract covers the Scope of Work described as Project 6: Transition Age Youth Peer Delivered Services - After School Drop In for LGBTQ+ Youth as set forth in the RFP #2018-45 Behavioral Health Peer Delivered Services including all addenda thereto ("RFP"), attached and hereby incorporated by reference as Attachment "A." This contract is funded in whole or in part by state or federal funds. As such, this Contract is subject to the additional terms and conditions described in Exhibits B, D, G, L, M, and N.

3. Consideration. The County agrees to pay Contractor for accomplishing the Work required by this Contract, from available and authorized funds, a sum not to exceed one hundred eighty-eight thousand three hundred fifty-six dollars and seventy-one cents (\$188,356.71) for the initial term of this Contract, which expires on June 30, 2020, and the total Contract value including the two year renewal term shall not exceed four hundred thirty-nine thousand five hundred dollars (\$439,500.00). If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Travel and Other Expense. Authorized: [] Yes [X] 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: http://www.clackamas.us/bids/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 including Exhibits B, D, G, L, M, N, Attachment "A", and the Contractor's Proposal attached and hereby incorporated by reference as Attachment "B". Work shall be performed in accordance with a schedule approved by the County.

5. Contractor Data.

Address: 704 Main Street #304, Oregon City, OR 97045

Contractor Contract Administrator: Jefferson Morgan

Phone No.: 503-765-5607

Email: jefferson@thelivingroomyouth.org

MWESB Certification: [] DBE # [] MBE # [] WBE # [] ESB #

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 could subject Contractor to backup withholding.

ARTICLE II.

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and 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. Such books and records shall be maintained by Contractor for a minimum of three (3) 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 FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County’s reasonable administrative discretion, to continue to make payments under this Contract.
- 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 federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor’s surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor’s employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee’s wages to provide such services.

Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by the applicable State or Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.

- 5. EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

- 6. GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon 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.
- 7. HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- 8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** 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.
- 9. 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; (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; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Attachment C)
- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit D**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), 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. 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.

- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us, or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.
- 13. 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.
- 14. 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) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. 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, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. 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.
- 17. 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. 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, Paragraphs 1, 8, 13, 15, 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.
- 18. 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.

19. TAX COMPLIANCE CERTIFICATION. Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

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

20. TERMINATIONS. This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the Work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

21. REMEDIES. (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work

multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, 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.

- 22. 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.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. 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.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, 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.
- 26. 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.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.

(C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

(D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

28. CONFIDENTIALITY. Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor 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 purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including

any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by its breach of its data security or confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

29. CRIMINAL BACKGROUND CHECK REQUIREMENTS. Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.

30. Further Assurances. Contractor agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to, executing all additional documentation necessary for County to comply with applicable State or Federal funding requirements.

31. 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.

ATTACHMENT A
PERSONAL/PROFESSIONAL SERVICES CONTRACT

SCOPE OF WORK

Contractor shall provide Behavioral Health Peer Delivered Services (“Work”). Work is described in the Request for Proposals #2018-45 Behavioral Health Peer Delivered Services issued September 12, 2018 (“RFP”) including all addenda thereto, included in this Attachment “A.” Insofar as the RFP includes Project Specific Scope and Expectations as stated therein, this Contract covers Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth. Work is further described in Vendor’s Response to RFP, hereby attached and incorporated by reference as Attachment “B.”

The County Contract administrator for this Contract is: Ally Linfoot

INVOICES AND PAYMENTS

- a. Consideration Rates – Fixed Fee basis of \$10,464.26 per month for this Contract’s eighteen (“18”) month initial term. Should a renewal option be exercised, the consideration rate shall be \$10,464.30 per month for the resulting twenty-four (“24”) month term.
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462. Payment for all Work performed under this Contract, including all optional renewals, shall not exceed the total maximum sum of **\$439,500.00**. Invoices shall be submitted to: Ally Linfoot, either by mail at 150 Beaver Creek RD, Oregon City OR, 97045 or email at ALinfoot@co.clackamas.or.us.
- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made 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 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. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. 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 billings shall also include the total amount billed to date by Contractor prior to the current invoice.



REQUEST FOR PROPOSALS #2018-45

FOR

BEHAVIORAL HEALTH PEER DELIVERED SERVICES

BOARD OF COUNTY COMMISSIONERS

JIM BERNARD, Chair
SONYA FISCHER, Commissioner
KEN HUMBERSTON, Commissioner
PAUL SAVAS, Commissioner
MARTHA SCHRADER, Commissioner

Donald Krupp
County Administrator

George Marlton
Procurement Division Director

Peter Madaus
Analyst

PROPOSAL CLOSING DATE, TIME AND LOCATION

DATE: September 12, 2018

TIME: 2:00 PM, Pacific Time

PLACE: Clackamas County Procurement Division
Clackamas County Public Services Building
2051 Kaen Road, Oregon City, OR 97045

SCHEDULE

Request for Proposals Issued.....	September 12, 2018
Protest of Specifications Deadline.....	September 19, 2018, 5:00 PM, Pacific Time
Deadline to Submit Clarifying Questions.....	October 3, 2018, 5:00 PM, Pacific Time
Request for Proposals Closing Date and Time.....	October 24, 2018, 2:00 PM, Pacific Time
Deadline to Submit Protest of Award.....	Seven (7) days from the Intent to Award
Anticipated Contract Start Date.....	January 1, 2019

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**SECTION 1
NOTICE OF REQUEST FOR PROPOSALS (RFP)**

Notice is hereby given that Clackamas County (“County”) through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, October 24, 2018** (“Closing”), to provide **Behavioral Health Peer Delivered Services**. No Proposals will be received or considered after that time.

As a result of this RFP, the County intends to enter into contracts for the eight (8) Behavioral Health Peer Delivered Services projects (“Project”) listed below in “Table 1.0” and further specified in “Section 3” of this RFP:

Table 1.0	
<i>Project</i>	<i>Not to Exceed 3.5 Year Budget</i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	\$142,000.00
Project 2: Adult Peer Delivered Services – Jail Support	\$426,000.00
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	\$532,500.00
Project 4: Adult Peer Delivered Services – Community Education	\$213,000.00
Project 5: Adult Peer Delivered Services – Villebois Community	\$710,000.00
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	\$439,500.00
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	\$342,500.00
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	\$287,500.00
*The “Not to Exceed 3.5 Year Budgets” amounts shall be included in proposal responses and shall not be construed to guarantee or represent the total contract value for any contracts that might result from this RFP.	

Each proposer entity shall only submit one proposal package in response to this RFP. This RFP is structured to allow proposer entities to include multiple Projects in one proposal package should they choose to do so. The resulting contract(s) from this RFP shall include a one and a half (1.5) year initial term with one (1) mutual renewal option for two (2) additional years.

Proposal packets are available from 7:00 AM to 6:00 PM Monday through Thursday at Clackamas County Procurement Division, Clackamas County Public Services Building, 2051 Kaen Road, Oregon City, OR 97045, telephone (503) 742-5444 or may be obtained at <http://www.clackamas.us/bids/>. Sealed Proposals are to be sent to Clackamas County Procurement Services – Attention George Marlton, Director at the above Kaen Road address. Sealed Proposals may be emailed to procurement@clackamas.us or sent to Clackamas County at the above Kaen Road address.

Contact Information

All communications with the County regarding this RFP shall only be directed to **Peter Madaus**, pmadaus@co.clackamas.or.us, (503) 742-5451.

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 bids from Minority, Women, 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. County will provide reasonable notice of its decision to all Proposers that have provided an address to the Procurement Division for this procurement. 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 the Bids and Contract Information page at <http://www.clackamas.us/bids/> for any published Addenda or response to clarifying questions.

2.5 Submission of Proposals: All Proposals must be submitted in a sealed envelope bearing on the outside, the name and address of the Proposer, the Project title, and Closing date/time. 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(s) in “Notice of Intent to Award” letter(s). Identification of the apparent successful Proposer(s) is procedural only and creates no right of the named Proposer(s) to award of the contract. Competing Proposer(s) will be notified in writing of the selection of the apparent successful Proposer(s) and shall be given seven (7) calendar days from the date on the “Notice of Intent to Award” letter 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. Written protests shall specify the Project(s) listed under Section 3 of this RFP to which the protest applies. 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(s) and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer(s); OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer(s) as nonresponsive, if such Proposer(s) is unable to demonstrate that its Proposal(s) complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name new apparent successful Proposer(s); OR
- c. reject all Proposals and cancel the procurement in whole, or with respect to any single Project or group of Projects named under Section 3 of this RFP.

2.7 Acceptance of Contractual Requirements: Failure of the selected Proposer(s) 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 192.501(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 192.501(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 192.500(1). 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(s) 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(s) are 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 Best and Final Offer: County may request best and final offers from those Proposers determined by County to be reasonably viable for contract award. However, County reserves the right to award a contract on the basis of initial Proposal received. Therefore, each Proposal should contain the Proposer's best terms from a price and technical standpoint. Following evaluation of the best and final offers, County may select for final contract negotiations/execution the offers that are most advantageous to County, considering cost and the evaluation criteria in this RFP.

2.28 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.

2.29 Intergovernmental Cooperative Procurement Statement: Pursuant to ORS 279A and LCRB, other public agencies shall have the ability to purchase the awarded goods and services from the awarded contractor(s) under terms and conditions of the resultant contract. Any such purchases shall be between the contractor and the participating public agency and shall not impact the contractor's obligation to County. Any estimated purchase volumes listed herein do not include other public agencies and County makes no guarantee as to their participation. Any Proposer, by written notification included with their

Proposal, may decline to extend the prices and terms of this solicitation to any and/or all other public agencies. County grants to any and all public serving governmental agencies, authorization to purchase equivalent services or products described herein at the same submitted unit bid price, but only with the consent of the contractor awarded the contract by the County.

**SECTION 3
SCOPE OF WORK**

3.1. INTRODUCTION

Clackamas County’s Behavioral Health Division (“Behavioral Health”) is seeking qualified programs and organizations to provide peer delivered support services in the areas of mental health and substance use. Services are to be provided within Clackamas County (“County”) and serving adults, children, youth, and families residing in the County or individuals moving to the County upon release from a correctional facility, juvenile detention facility, psychiatric or substance use treatment in-patient facility, or hospital. The County intends to enter into multiple contracts as a result of this solicitation.

In submitting a response to this RFP, the proposer certifies that paid staff providing services under any contract issued will be paid a living wage and receive appropriate benefits.

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

Since 2010, Behavioral Health has consistently worked to create a comprehensive Peer Delivered Services System of Care. We support a system of care that promotes a family’s and individual’s resiliency and recovery from mental health and substance use. Behavioral Health believes peer support is a critical element of recovery. Peer Services supports this system by ensuring individuals and families with children are empowered and drive the process of reaching and sustaining recovery, wellness, and resilience while building an inclusive community.

The outcome of this RFP process will be the availability of an array of peer delivered support services reaching a broad population of adults, youth and young adults in transition, family members and caregivers. These services will be provided to individuals and families who may also require support within other systems such as corrections, addictions, juvenile justice, child welfare, and others.

Please read this RFP carefully as Clackamas County seeks to fulfill several lines of peer support services. The Scopes of Work for each peer support service covered under this RFP are individually outlined in this Section. The peer support services are:

Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups
Project 2: Adult Peer Delivered Services – Jail Support
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic
Project 4: Adult Peer Delivered Services – Community Education
Project 5: Adult Peer Delivered Services – Villebois Community
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth
Project 7: Children and Families – Family Navigator / Emergency Room Diversion
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors

Proposers may submit a proposal for one or more of the above Projects. If Proposer submits a proposal for more than one Project, the proposal must be very clear and complete for each Project and follow instructions in Section 5.

3.3. SCOPE AND EXPECTATIONS FOR ALL PROJECTS

3.3.1. STAFF STANDARDS

Contractor shall complete the following for all staff:

- A successful criminal history records check through the State of Oregon Background Check Unit (“BCU”) compliant with ORS Chapter 181 and OAR 407-007-0000 to OAR 407-007-0370.
- Positive clearance through the General Services Administration System for Award Management (“SAM”) at time of hire and monthly thereafter; and
- Positive clearance through the Office of Inspector General’s (“OIG”) List of Excluded Individuals/Entities at time of hire and monthly thereafter.
- Review appropriate education and academic degrees;
- Review licenses or certificates, as required;
- Review relevant work history or qualifications;
- Document and certify that the staff’s education, experience, competence, and supervision are adequate to permit the staff to perform the assigned duties.

In addition, Contractor shall ensure all staff with direct one-on-one contact with the County residents:

- Complete Oregon Health Authority approved training program for Peer Delivered Services and adherence to all requirements in the Traditional Health Worker administrative rules including, OAR 410-180-0300 to OAR 410-180-0380.

County will provide technical assistance to Contractor on exclusion process through SAM and OIG, upon which time, the County will delegate to the Contractor the responsibility of exclusion checks. County may review Contractor’s adherence to exclusion checks during routine contract compliance monitoring.

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

In addition, Contractor shall not permit any person to provide services under this Contract who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101 “Program Integrity – Medicare and State Health Care Programs Subpart B”.

If Contractor is unable to adhere with requirements listed, Contractor shall communicate directly with Clackamas County’s Peer Services Coordinator a plan for meeting contract requirements.

3.3.1. REPORTING REQUIREMENTS

Behavioral Health’s Peer Delivered Services has developed the following general outcome measures that must be reported to the County on a quarterly basis.

Individuals Served:

- Number of individuals served during the reporting period.
- Number of new individuals served during the reporting period.
- Number of individuals who concluded support services during the reporting period.

Experience of Services:

- Does the individual feel they would have returned to a higher level of care or to a corrections setting if not for Peer Delivered Services?
- Does the individual feel their quality of life has improved overall?
- Has there been an increase in natural supports?

Training, Workshops, Support Groups:

- Number of continuing education/training programs or classes attended by Peer Support Specialists during the quarter.
- Number of workshops, support groups, or presentations provided for individuals receiving peer support services.
- Number of outreach activities conducted to inform and engage community partners and potential referral sources about the role of Peer Support Specialists and the Support Services available.

These reporting requirements will be included in any contract awarded. There may be additional reporting requirements dependent on the type of funding available for the contract and the specific type of peer support being provided through the contract. Please review the sample contract and exhibits associated with the program(s) for which you would like to propose to find additional reporting and related requirements.

3.4. PROJECT SPECIFIC SCOPE AND EXPECTATIONS

3.4.1. PROJECT 1: ADULT PEER DELIVERED SERVICES – DUAL DIAGNOSIS SUPPORT GROUPS

Budget:

\$142,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults with mental health and addictions seeking recovery support in a group setting.

Service Components:

Please provide a plan for providing the following services/supports:

- Comprehensive and current referral network with community agencies and system partners through an outreach specialist to promote recovery support groups
- Monthly fellowship meetings for group leaders.
- Maintenance of eight (8) or more chapters/groups that serve a minimum of 750 contacts throughout the duration of the contract.
- Supports/services including a focus on special populations, such as veterans.
- Ongoing outreach that includes dissemination of informational literature about meeting times, locations, and upcoming events.
- Workshops/trainings/support groups that will be available as well as opportunities for leadership development provided through the organization for those individuals being served.

3.4.2. PROJECT 2: ADULT PEER DELIVERED SERVICES – JAIL SUPPORT

Budget:

\$426,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults residing in Clackamas County Jail seeking recovery support for substance use and may also have co-occurring mental health issues.

Service Components:

Please provide a plan for providing the following services/supports:

- Weekly support groups, workshops and/or recovery curriculum within Clackamas County Jail.
- Collaborative work processes with the County services to begin engagement and access services and resources when appropriate.
- Workshops/trainings/support groups that will be available, as well as opportunities for leadership development provided through the organization for those individuals being served once they have been released from jail
- Peer support services within the jail.

Staffing:

- 1.0 FTE for a Lead Peer Recovery Mentor.
- 1.5 FTE Peer Support Specialists (PSS). At least one PSS must be male.

3.4.3. PROJECT 3: ADULT PEER DELIVERED SERVICES – CLACKAMAS COUNTY CRISIS CLINIC

Budget:

\$532,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults with mental health or co-occurring mental health and addiction who are seeking services through the County's crisis mental health walk-in clinic located in Clackamas County, OR.

Service Components:

Please provide a plan for providing the following services/supports:

- Cooperative work processes with the County to promote a recovery oriented support system that focuses on hope, choice, personal responsibility, and self-determination.
- Supports for individuals experiencing:
 - Recurring hospitalizations
 - Frequent police contact
 - New diagnoses
 - Difficulty engaging with natural community supports
- Both 1:1 support and group support.

Staffing:

The peer support team will work in collaboration with service teams located at the County's crisis walk-in clinic. Work will be performed both on site at the crisis clinic and in the community.

- 2 – 0.8 FTE Peer Support Specialists
- 1 – 0.4 FTE Peer Supervisor

3.4.4. PROJECT 4: ADULT PEER DELIVERED SERVICES – COMMUNITY EDUCATION

Budget:

\$213,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Family members, caregivers, and individuals seeking mental health education and group support for themselves and/or their loved ones. Priority for participation and enrollment in programs shall be granted to County residents.

Service Components:

Please provide a plan for providing the following services/supports:

- Family member and caregiver support groups.
- Peer support groups.
- Public education and outreach through curriculum and educational programming.
- Information regarding community resources.
- A variety of peer activities.

3.4.5. PROJECT 5: ADULT PEER DELIVERED SERVICES – VILLEBOIS COMMUNITY

Budget:

\$710,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults living in supportive housing in the Villebois Community at Renaissance Court Apartments, Rain Garden Apartments, and The Charleston Apartments located in Wilsonville, OR.

Service Components:

Please provide a plan for providing the following services/supports:

- 1:1 peer support for residents requesting support.
- Assistance in crisis and eviction prevention.
- Referrals to community resources.
- Coordination and facilitation of various group activities based on input from residents.

Staffing:

- 2 FTE Peer Wellness Specialist

3.4.6. PROJECT 6: TRANSITION AGE YOUTH PEER DELIVERED SERVICES – AFTER SCHOOL DROP IN FOR LGBTQ+ YOUTH

Budget:

\$439,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Provide support services to youth/young adults between the ages of 14-20 years who identify as lesbian, gay, bisexual, transgender, queer, intersex (“LGBTQI”).

Service Components:

Please provide a plan for providing the following services/supports:

- Collaborative work processes with the County to promote a support system that focuses on hope, choice, personal responsibility, and self-determination.
- Support and coordination to high schools and middle schools within the County for the development of Gay Straight Alliances (“GSA”).
- Coordination of an annual GSA summit.
- A minimum of (1) one day per week drop-in programming for LGBTQI youth/young adults.

Additional Questions:

Please describe:

- The process used to develop GSA’s within schools.
- Drop-in programming that will be offered.
- Any activities available to youth/young adults including workshops, trainings, leadership development, and social activities that will be available and provided by the organization.

3.4.7. PROJECT 7: CHILDREN AND FAMILIES – FAMILY NAVIGATOR / EMERGENCY ROOM DIVERSION

Budget:

\$342,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Provide support to families entering the Emergency Department (“ED”) within the County for a child experiencing a mental health crisis.

Service Components:

Please provide a plan for providing the following services/supports:

- Assistance, attendance and/or participation in supportive services for parents/caregivers navigating ED services.
- System navigation services and supports.
- Ongoing local resource information for families to access independently.
- Support of the development of and connection of families to natural supports within their community.
- Family Navigator will be required to collaborate closely with hospital systems and other system partners.

Staffing:

- 1.0 FTE Family Navigator

3.4.8. PROJECT 8: ADULT PEER DELIVERED SERVICES – PEER SUPPORT FOR OPIOID OVERDOSE SURVIVORS

Budget:

\$287,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

Target Populations:

Adults having recently survived an opioid overdose that require a response by emergency medical services in the County.

Service Components:

Please provide a plan for providing the following services/supports:

- 1:1 peer support for recent survivors of an opioid overdose who may or may not currently be in recovery
- Referrals to community resources
- “Bridging services” to those wanting to access treatment and other recovery supports
- SUD system navigation supports
- Assistance to individuals in identifying wellness and recovery goals
- Document supports provided to each individual
- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

Staffing:

This position collaborate and works closely with the HOPE Team (<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center (<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

3.5. TERM OF CONTRACT:

The term of the contract shall be from the effective date through **June 30, 2020** with the option for one (1) additional two (2) year renewal thereafter subject to the mutual agreement of the parties.

Throughout the term of the resulting contracts, the funding sources for the Project may increase or decrease. As applicable to each Project, the County reserves the right to issue amendments to the resulting contracts and either increase or decrease the budget and thereby adjust the service level accordingly. Any such decrease or increase shall also take into account the need for services, performance under the contract, and other factors related to the County’s best interest.

The fees proposed shall be fixed for the initial term of the contract (through June 30, 2020). For the renewal discussions, the County may consider a budgetary increase limited to the percentage reflected by the latest measurement of the Consumer Price Index, West Region (<https://www.bls.gov/regions/west/home.htm>). The County’s budgetary increase considerations may include factors such as availability of funding, the County’s best interest, and other factors as determined by the County.

3.6. 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 Professional Services Contract for this RFP can be found at <http://www.clackamas.us/bids/terms.html>.

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

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

- Article I, Paragraph 4 – Travel and Other Expense is Authorized
- Article II, Paragraph 29 – Confidentiality
- Article II, Paragraph 29 – Criminal Background Check Requirements
- Article II, Paragraph 30 – Key Persons
- Exhibit A – On-Call Provision

Any contracts resulting from this RFP shall include insurance requirements which shall meet or exceed any and all applicable requirements as set forth in the below exhibits:

- Exhibit A Definitions (CMHP)
- Exhibit B Definitions (OHP)
- Exhibit C Insurance (CMHP)
- Exhibit D Insurance (OHP)
- Exhibit E CMHP Required Provider Contract Provisions
- Exhibit F CHMP Required Federal Terms & Conditions
- Exhibit G OHP Required Federal Terms & Conditions
- Exhibit H CMHP Service Element – MHS 20
- Exhibit I CMHP Service Element – MHS 37 EDD
- Exhibit J CMHP Service Element – MHS 25
- Exhibit K CMHP Service Element – MHS 66
- Exhibit L Performance Standards
- Exhibit M Certification Statement for Independent Contractor
- Exhibit N Qualified Service Organization Business Associate Agreement
- Exhibit O Business Associate Agreement
- Exhibit P CMHP Service Element MHS 37 Jail Diversion

CONTRACT EXHIBITS FOR EACH PROJECT	
Project	Required Exhibits
1. Adult Peer Delivered Services – Dual Diagnosis Support Groups	A, C, E, F, K, L, M, N, P, Q
2. Adult Peer Delivered Services – Jail Support	A, C, E, F, K, L, M, N, P, Q
3. Adult Peer Delivered Services – Clackamas County Crisis Clinic	A, C, E, F, J, L, M, N, P, Q, R
4. Adult Peer Delivered Services – Community Education	B, D, G, L, M, O, P, Q
5. Adult Peer Delivered Services – Villebois Community	A, C, E, F, H, L, M, N, P, Q
6. Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	B, D, G, L, M, N, P, Q
7. Children and Families – Family Navigator / Emergency Room Diversion	A, C, E, F, I, L, M, N, P, Q
8. Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	B, D, G, L, M, N, P, Q

All Exhibits are subject to change and/or amendment (e.g., as required by County’s funding sources).

**SECTION 4
EVALUATION PROCEDURE**

4.1 An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals independently by Project in accordance with the below criteria. The evaluation committee may recommend awards on a Project-by-Project basis 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 for each Project. 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 contracts 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 different Proposers, 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>
General Information (Section 5.4.)	0-30
Program Design (Section 5.5. A.)	0-40
Workshops/Support Groups/Training (Section 5.5. B.)	0-40
Staffing Plan and Development (Section 5.5. C.)	0-35
Quality Assurance (Section 5.5. D.)	0-30
Budget (Section 5.5. E.)	0-25
Available points	0-200

4.3 Once selections have been made, the County will enter into contract negotiations. During negotiations, 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 contracts. The negotiations will identify a level of work and associated fee that best represent the efforts required. If the County is unable to come to terms with the highest scoring Proposer for each Project, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple Projects and the County deems it is in its interest to not authorize any particular Project, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer for each Project.

**SECTION 5
PROPOSAL CONTENTS**

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

5.1.1. Complete Proposals may be mailed to the below address or 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 the Proposal is mailed, an original copy and an electronic copy (on compact disk or jump drive) must be included. The Proposal (hardcopy or email) must be received by the Closing Date and time indicated in Section 1 of the RFP.

5.1.2. Mailing address including Hand Delivery, US Mail, UPS and FEDEX:

Clackamas County Procurement Division – Attention George Marlton, Director
Clackamas County Public Services Building
2051 Kaen Road
Oregon City, OR 97045

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.

5.2. PROPOSALS

Provide in order the information as specified in sections 5.3., 5.4., 5.5., 5.6., 5.7., and 5.8. below:

5.3. PROPOSED PROJECT(S) COVER PAGE

Using the following table format, indicate which Project or Projects are included in your proposal:

<i>Project</i>	<i>Included in Proposal*</i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	
Project 2: Adult Peer Delivered Services – Jail Support	
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	
Project 4: Adult Peer Delivered Services – Community Education	
Project 5: Adult Peer Delivered Services – Villebois Community	
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	
<i>*Any mark in this column, such as a checkmark or an “X”, indicates that the Project listed in the corresponding row shall be included in the Proposal. Blank rows in this column shall indicate that the Project listed in the corresponding row shall not be included in the proposal. The County shall, at its sole discretion, determine which Project or Projects are included with each proposal.</i>	

5.4. General Information (0-30 Points, Page Limit 3 pages plus Organizational Chart)

Proposals must include the following general organizational information. **Proposals that include more than one Project shall only include one (1) “General Information” response.** Please describe or provide

- Organization’s mission statement and organizational goals.
- Organization’s history, relevant experience and capacity to provide peer support services of similar scope and type to those listed in the projects included in your proposal.

- Current relationships with system partners your organization may have such as, police, hospitals, and other community support organizations as relevant to the Projects included in your proposal.
- Ability, if any, to document services electronically.
- Organizational Chart and a clear description of the management and governance of the organization.
(include as attachment)

5.5. Service Information:

Proposals must include the following information related to the provision of peer delivered support services. **Proposals that include more than one Project must include a separate response to section “5.5 A.”, “5.5 B.” and “5.5 E.” for each Project that the proposal includes.** For example, a proposal that includes two (2) Projects, must include two (2) separate responses (one for each Project) including the information as specified in section “5.5 A.”, “5.5 B.”, and “5.5 E.”.

A. Program design, strategy, and capacity (0-40 Points, Page limit 4)

Please describe the following:

- Where services would be provided in Clackamas County.
- The peer support philosophy including the rationale and research used to support the model.
- The plan and/or planning process used to ensure the scope of individual peer services and supports are defined and driven by the individual receiving the support.
- Any training provided and/or certification(s) of peer support staff, paid or unpaid.
- How you identify the target population to be served (i.e. children, youth/young adults in transition, adults, families, older adults), experience serving this population and capacity to serve the population, including the number of individuals and/or families to be served.
- Your organization's ability to provide culturally-responsive services including services to persons whose primary language may not be English.

B. Workshops, Support Groups, and Training (0-40 Points, Page limit 3)

Please describe the following:

- Any workshops the organization is able to provide for people receiving support services or for the broader community. These workshops may include, but are not limited to, classes providing education on specific mental health diagnosis; informational classes on community resources; supportive employment or housing; alternative pathways to recovery, etc.
- Support groups the organization is able to provide for people receiving support services or to the broader community. These groups may include, but are not limited to Hearing Voices groups; AA, NA, DDA, or other anonymous groups supporting sobriety; group support for depression, anxiety, and other mental health conditions, etc.
- Trainings offered by the organization that benefits the peer support specialist workforce. These trainings may include, but are not limited to, training to become a peer support specialist; trauma informed approaches to peer support; leadership skill building; system navigation, etc.

C. Staffing Plan and Development (0-35 Points, Page limit 3)

Please describe the following:

- Supervision procedures and support for staff, both paid and unpaid.
- How your organization identifies and assures that peer providers have lived experience relevant to the role of peer providers.
- Opportunities for peer providers to network and receive support from other peer providers.

- How your organization promotes self-care and provides specific accommodations when necessary.
- Job descriptions of those providing direct services as well as their direct supervisors.
- Plan for training and staff development.

D. Quality Assurance (0-30 Points, Page limit 3)

Please describe the following:

- Organizational outcome measures, if established, and how are they measured and monitored
- Organization’s process for protecting client confidentiality. Do you have a written policy addressing this topic?
- Organization’s process for handling internal and external grievances. Do you have a written policy addressing this topic?
- Organization’s process for ensuring continuous quality improvement.
- Plan for organizational sustainability.

E. Budget Proposal (0-25 Points, Page limit 2)

Please complete and submit **one provided “Budget Form” for each proposed Project** (e.g., if your proposal includes two (2) Projects, complete two separate budget forms - one for each Project). An electronic version of the “Budget Form” can be found at the following website:

<https://www.clackamas.us/bids>

Each budget form shall only include the proposer’s budget to deliver one Project. Budget forms shall not reflect the costs that assume multiple Projects have been awarded. If multiple Projects are awarded to a single proposer, any resulting budgetary adjustments shall be made in the course of contract negotiations. Please review the sample contract and exhibits applicable to the Project(s) included in your proposal to guide the formation of your budget. For example, if exhibits applicable to your proposed Projects include allowable cost requirements, you might review them to ensure that your budget reflects a spending plan that is compliant with allowable cost requirements.

5.6. Fees

Please complete and submit the provided Budget Form. List the not-to-exceed amount you propose for each category indicated in the form. Monthly fees under contracts resulting from this RFP shall be calculated by dividing the budget for the initial contract term by the number of months it encompasses. Fees for renewed contracts resulting from this RFP will be calculated according to renewal negotiations and/or the conditions outlined in “Section 1” of this RFP.

5.7. References

Provide up to three (3) references from clients your firm has served similar to the County, preferably in the past three (3) years, for whom Proposer has provided services that are similar in nature to those included in your organization’s proposal. Provide the name, address, email, and phone number of the references.

5.8. Completed Proposal Certification (see the below form)

REQUEST FOR PROPOSALS #2018-45
Behavioral Health Peer Delivered Services
ADDENDUM NUMBER 1
September 27, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #1. Except as expressly amended below, all other terms and conditions of the original RFP shall remain unchanged.

The following changes are made to Section 3.4.8

1. Service Components: Remove in its entirety the following bullet point on page twelve (12) of the RFP:

- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

And replace with the following:

- Collaborating with diverse stakeholders in the community and others within the Health, Housing, and Human Services Department.

2. Staffing: Remove and replace in its entirety the following on page twelve (12) of the RFP:

This position collaborate and works closely with the HOPE Team (<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center (<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

And replace with the following:

- 1.0 FTE Peer Support Specialist in recovery from an opioid addiction and preferably with mental health lived experience.
- This position is partnered with a community paramedic team and will be working with American Medical Response, Inc. and Clackamas Fire.

End of Addendum #1

REQUEST FOR PROPOSALS #2018-45
 Behavioral Health Peer Delivered Services
 ADDENDUM NUMBER 2
 October 2, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #2. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The “CONTRACT EXHIBITS FOR EACH PROJECT” tables found in Section 3.6 on page 14 and Section 6.0.1 on page 21 of the RFP are hereby removed and replaced by the following:

CONTRACT EXHIBITS FOR EACH PROJECT	
Project	Required Exhibits
9. Adult Peer Delivered Services – Dual Diagnosis Support Groups	A, C, E, F, K, L, M, N
10. Adult Peer Delivered Services – Jail Support	A, C, E, F, K, L, M, N
11. Adult Peer Delivered Services – Clackamas County Crisis Clinic	A, C, E, F, J, L, M, N, P
12. Adult Peer Delivered Services – Community Education	B, D, G, L, M, O
13. Adult Peer Delivered Services – Villebois Community	A, C, E, F, H, L, M, N
14. Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	B, D, G, L, M, N
15. Children and Families – Family Navigator / Emergency Room Diversion	A, C, E, F, I, L, M, N
16. Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	B, D, G, L, M, N

End of Addendum #2

REQUEST FOR PROPOSALS #2018-45
Behavioral Health Peer Delivered Services
ADDENDUM NUMBER 3
October 24, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #3. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP Closing Date and Time is hereby changed from October 24, 2018 at 2:00 PM, Pacific Time to October 29, 2018 at 2:00 PM, Pacific Time. This change hereby amends all applicable references to the Closing Date and Time found in RFP #2018-45.

End of Addendum #3

REQUEST FOR PROPOSALS #2018-45
Behavioral Health Peer Delivered Services
ADDENDUM NUMBER 4
November 7, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”), on September 27, 2018 published Addendum #1, on October 3, 2018 published Addendum #2, and on October 24, 2018 published Addendum #3. The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #4. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP is hereby amended to remove all references to Project 7: Children and Families – Family Navigator / Emergency Room Diversion and Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors.

It is the County’s intent to promptly re-issue an RFP for Projects 7 and 8.

End of Addendum #4

**ATTACHMENT B
VENDOR'S RESPONSE TO RFP**

EXHIBIT B DEFINITIONS (OHP)

Whenever used in this Contract, the following terms shall have the meanings set forth below:

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

AMH: State of Oregon, Department of Human Services, Addictions and Mental Health Division (now known as the Department of Human Services of the State of Oregon [DHS]).

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

Contractor: The entity contracted by the County.

County: Clackamas County Behavioral Health Division.

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

Department: DHS (formally AMH) contracts with County to establish and finance community mental health and addition programs; County, in turn, subcontracts certain services to Contractor.

DHS: the Department of Human Services of the State of Oregon (formerly known as the Addictions & Mental Health Division [AMH]).

Federal Funds: Funds paid to Contractor under this Contract that are received from an agency, instrumentality or program of the Federal government of the United States.

Health Share of Oregon: A Coordinated Care Organization (CCO) serving Oregon Health Plan enrollees of Clackamas, Multnomah, and Washington Counties.

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

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

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

Misexpenditure: Money, other than an overexpenditure disbursed to Contractor by County under this Contract and expended by Contractor that:

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

Measures and Outcomes Tracking System (MOTS): the DHS (formally AMH) data system that stores client data submitted by Contractor and/or County.

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

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

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

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

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

Third Party Resources: Any individual, entity, or program that is, or may be, liable to pay all or part of the cost of any Covered Service furnished to an OHP Member, including but not limited to: private health insurance or group health plan; employment-related health insurance; medical support from absent parents; workers’ compensation; Medicare; automobile liability insurance; other federal programs such as Veteran’s Administration, Armed Forces Retirees and Dependent

Act, Armed Forces Active Duty and Dependents Military Medical Benefits Act, and Medicare Parts A and B; another state's Title XIX, Title XXI or state-funded Medical Assistance Program; and personal estates.

Valid Claim: An invoice, in the form of a CMS 1500 claim form, submitted for payment of covered health services rendered to an eligible client that is submitted within the required 120 days from the date of service or discharge and that can be processed without obtaining additional information from the provider of the service or from a third party. A valid claim is synonymous with the federal definition of a clean claim as defined in 42 CFR 447.45(b).

**EXHIBIT D
INSURANCE (OHP)**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

1. Workers Compensation. Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126. Contractors shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

2. Professional Liability. **Required by County** **Not required by County**

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages because of personal injury, bodily injury, death, or damage to property caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

If this box is checked Professional Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate.

3. General Liability. **Required by County** **Not required by County**

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage for the protection of the **County, Health Share of Oregon, and the State of Oregon, and its officers, elected officials, agents, and employees.** It shall include contractual liability coverage for the indemnity provided under this Contract.

If this box is checked General Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

4. Automobile Liability. **Required by County** **Not required by County**

Commercial Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury, Death, and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

Commercial Automobile Liability insurance limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

Personal Automobile Liability insurance limits shall be not less than \$250,000/occurrence, \$500,000/aggregate, and \$100,000/property damage.

5. Physical Abuse and Molestation Liability. **Required by County** **Not required by County**

Physical Abuse and Molestation Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. Coverage shall be provided through either general liability or professional liability coverage. Proof of Sex Abuse/Molestation insurance coverage must be provided.

6. Privacy and Network Security. **Required by County** **Not required by County**

Privacy and Network Security coverages shall be obtained and maintained to provide protection against liability for (a) system attack; (b) denial or loss of service attacks; (c) spread of malicious software code; (d) unauthorized access and use of computer systems; and (e) liability from the loss or disclosure of confidential data with limit of \$1,000,000 per claim/annual aggregate.

If this box is checked Privacy and Network Security limit shall be at least \$4,000,000.

7. Additional Insured Provision. The insurance, other than Professional Liability (except to the extent it only applies to Commercial General Liability exposures), Workers' Compensation, Personal Automobile Liability and Pollution Liability Insurance, shall include **Clackamas County, Health Share of Oregon, and the State of Oregon, and their officers, elected officials, agents, and employees** as an additional insured.

8. Primary Coverage Clause. Contractor's insurance shall apply as primary and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above. This must be noted on the insurance certificate.

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

10. "Tail" Coverage. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Contract, for a minimum of twenty-four (24) months following the later of: (i) the Contractor's completion and County's acceptance of all Services required under the Provider Contract; or (ii) the expiration of all warranty periods provided under the Contract. Notwithstanding the foregoing 24-month requirement, if the Contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period

described above, then the Contractor may request and County may grant approval of the maximum “tail” coverage period reasonably available in the marketplace. If County approval is granted, the Contractor shall maintain “tail” coverage for the maximum time period that “tail” coverage is reasonably available in the marketplace.

11. Self-insurance. Contractor may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that Contractor’s self-insurance program complies with all applicable laws, provides coverage equivalent in both type and level to that required in this Exhibit, and is reasonably acceptable to County. Contractor shall furnish an acceptable insurance certificate to County for any insurance coverage required by this Contract that is fulfilled through self-insurance. Stop-loss insurance and reinsurance coverage against catastrophic and unexpected expenses may not be self-insured.

12. Certificates of Insurance. Contractor shall furnish evidence of the insurance required in this Contract. Contractor will maintain the insurance in full force throughout the duration of this Contract. No Contract shall be in effect until the required certificates have been received, approved, and accepted by County. A renewal certificate will be sent to County ten (10) days prior to coverage expiration. The insurance for general liability and commercial automobile liability must include an endorsement naming **Clackamas County, Health Share of Oregon, and the State of Oregon, and their officers, elected officials, agents, and employees** as additional insureds with respect to the Work under this Contract. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

Clackamas County, 2051 Kaen Road, Suite 154, Oregon City, Oregon 97045

Certificates of Insurance should be submitted electronically or by mail to:

BHcontracts@clackamas.us

Clackamas County
Contracts Administration
2051 Kaen Road, Suite 154
Oregon City, OR 97045

13. Insurance Carrier Rating. Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the County. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

14. Waiver of Subrogation. Contractor agrees to waive their rights of subrogation arising from the Work performed under this Contract.

15. Notice of cancellation or change. There shall be no cancellation, material change, exhaustion of aggregate limits, reduction of limits, or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Behavioral Health Division, 2051 Kaen Road, Suite 154, Oregon City, OR 97045 or BHcontracts@clackamas.us.

17. Insurance Compliance. The County will be entitled to enforce Contractor compliance with the insurance requirements, and will take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force, terminating the Contract as permitted by the Contract, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a Contractor to work under this Contract when the County is aware that the Contractor is not in compliance with the insurance requirements.

EXHIBIT G

OHP REQUIRED FEDERAL TERMS AND CONDITIONS

Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, Contractor shall comply and, as indicated, cause all Subcontractors to comply with the following federal requirements to the extent that they are applicable. For purposes of this Contract, all references to federal and State laws are references to federal and State laws as they may be amended from time to time.

1. Miscellaneous Federal Provisions

Contractor shall comply and require all Subcontractors to comply with all federal laws, regulations and executive orders applicable to this Contract or to the delivery of Work. Without limiting the generality of the foregoing, Contractor expressly agrees to comply and require all Subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to this Contract: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) 45 CFR Part 84 which implements, Title V, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Section 1557 of the Patient Protection and Affordable Care Act (ACA), (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 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 this Contract and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.

2. Equal Employment Opportunity

If this Contract, including amendments, is for more than \$10,000, then Contractor shall comply and require all Subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

3. Clean Air, Clean Water, EPA Regulations

If this Contract, including amendments, exceeds \$100,000 then Contractor shall comply and require all Subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR

Part 1532), which prohibit the use under non-exempt federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to OHA, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include and require all Subcontractors to include in all contracts with Subcontractors receiving more than \$100,000, language requiring the Subcontractor to comply with the federal laws identified in this section.

4. Energy Efficiency

Contractor shall comply and require all Subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. 6201 et seq. (Pub. L. 94-163).

5. Truth in Lobbying

By signing this Contract, the Contractor certifies, to the best of the Contractor's knowledge and belief that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, 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 Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

c. The Contractor 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.

d. This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by Section 1352, Title 31, of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

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

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

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

6. HIPAA Compliance

The parties acknowledge and agree that each of County and the Contractor is a “covered entity” for purposes of privacy and security provisions of the Health Insurance Portability and Accountability Act and its implementing federal regulations (collectively referred to as HIPAA). County and Contractor shall comply with HIPAA to the extent that any Work or obligations of County arising under this Contract are covered by HIPAA. Contractor shall develop and implement such policies and procedures for maintaining the privacy and security of records and authorizing the use and disclosure of records required to comply with this Contract and with HIPAA. Contractor shall comply and cause all Subcontractors to comply with HIPAA and the following:

- a. **Privacy and Security of Individually Identifiable Health Information.** Individually Identifiable Health Information about specific individuals is protected from unauthorized use or disclosure consistent with the requirements of HIPAA. Individually Identifiable Health Information relating to specific individuals may be exchanged between Contractor and County for purposes directly related to the provision of services to clients which are funded in whole or in part under this Contract. However, Contractor shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate HIPAA Privacy Rules in 45 CFR Parts 160 and 164, OHA Privacy Rules, OAR Chapter 407 Division 014, or 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://apps.state.or.us/cf1/FORMS/>, Form number ME2090 Notice of Privacy Practices, or may be obtained from OHA.
- b. **HIPAA Information Security.** Contractor shall adopt and employ reasonable administrative and physical safeguards consistent with the Security Rules in 45 CFR Part 164 to ensure that client information shall be used by or disclosed only to the extent necessary for the permitted use or disclosure and consistent with applicable State and federal laws and the terms and conditions of this Contract. Security incidents involving client information must be immediately reported to DHS' Privacy Officer.
- c. **Data Transactions Systems.** Contractor shall comply with the HIPAA standards for electronic transactions published in 45 CFR Part 162 and the DHS EDT Rules, OAR 410-001-0000 through 410-001-0200. In order for Contractor to exchange electronic data transactions with OHA in connection with claims or encounter data, eligibility or Enrollment information, authorizations or other electronic transaction, Contractor shall execute an EDT Trading Partner Agreement with OHA and shall comply with the OHA EDT Rules.
- d. **Consultation and Testing.** If Contractor reasonably believes that the Contractor's, County'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, Contractor shall promptly consult the County or OHA HIPAA officer. Contractor, County, or OHA may initiate a request for testing of HIPAA transaction requirements, subject to available resources and OHA testing schedule.

7. Resource Conservation and Recovery

Contractor shall comply and require all Subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials

identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

8. Audits

- a.** Contractor shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Contract and applicable state or federal law.
- b.** If Contractor expends \$500,000 or more in Federal funds (from all sources) in its fiscal year beginning prior to December 26, 2014, Contractor shall have a single organization-wide audit conducted in accordance with the Single Audit Act. If Contractor expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, Contractor shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to OHA within 30 days of completion. If Contractor expends less than \$500,000 in Federal funds in a fiscal year beginning prior to December 26, 2014, or less than \$750,000 in a fiscal year beginning on or after that date, Contractor is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, Part 8, Section 2.

9. Debarment and Suspension

Contractor shall, in accordance with 42 CFR 438.808(b), not permit any person or entity to be a Subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No.12549. Subcontractors with 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 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:

- a.** The Provider is controlled by a sanctioned individual
- b.** 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

- c. 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:
 - (i) Any individual or entity excluded from participation in Federal health care programs.
 - (ii) Any entity that would provide those services through an excluded individual or entity.

The Contract prohibits the Contractor from knowingly having a person with ownership of 5% or more of the Contractor'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.

If OHA learns that Contractor has a prohibited relationship with a person or entity that is debarred, suspended, or excluded from participation in federal healthcare programs, OHA:

- a. Must notify DHHS of Contractor's noncompliance;
- b. May continue an existing agreement with the Contractor unless DHHS directs otherwise; and
- c. May not renew or extend the existing contract with the Contractor unless DHHS provides to the State a written statement describing compelling reasons that exist for renewing or extending the Contract, consistent with 42 CFR 438.610.

10. Drug-Free Workplace

Contractor shall comply and cause all Subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) Contractor certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Contractor's workplace or while providing services to Members. Contractor's notice shall specify the actions that will be taken by Contractor against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Contractor's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Contract a copy of the statement mentioned in Paragraph (i) above; (iv) Notify each employee in the statement required by Paragraph (i) above, that, as a condition of employment to provide services under this Contract, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction; (v)

Notify OHA within 10 days after receiving notice under Paragraph (iv) above, from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of Paragraphs (i) through (vi) above; (viii) Require any Subcontractor to comply with Paragraphs (i) through (vii) above; (ix) Neither Contractor, or any of Contractor's employees, officers, agents or Subcontractors may provide any service required under this Contract while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Contractor or Contractor's employee, officer, agent or Subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or Subcontractor's performance of essential job function or creates a direct threat to Clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Contract.

11. Pro-Children Act

Contractor shall comply and require all Subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et seq.).

12. Non-Discrimination

Contractor shall comply, and require its Subcontractors to 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. Contractor shall also comply with all applicable requirements of State civil rights and rehabilitation statutes and rules.

13. OASIS

To the extent applicable, Contractor shall comply with, and shall require Subcontractors to comply with, the Outcome and Assessment Information Set (OASIS) reporting requirements and patient notice requirements for skilled services provided by Home Health Agencies, pursuant to CMS requirements published in 42 CFR 484.20, and such subsequent regulations as CMS may issue in relation to the OASIS program.

14. Patient Rights Condition of Participation

To the extent applicable, Contractor shall comply with, and shall require Subcontractors to comply with, the Patient Rights Condition of Participation (COP) that Hospitals must meet to continue participation in the Medicaid program, pursuant to 42 CFR Part 482. For

purposes of this Contract, Hospitals include short-term, psychiatric, rehabilitation, long-term, and children's hospitals.

15. Federal Grant Requirements

The federal Medicaid rules establish that OHA and the County are recipients of federal financial assistance, and therefore are subject to federal grant requirements pursuant to 42 CFR 430.2(b). To the extent applicable to Contractor or to the extent OHA and/or the County requires Contractor to supply information or comply with procedures to permit OHA and/or the County to satisfy its obligations federal grant obligations or both, Contractor 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);
- f.** Part 95 (Medicaid and CHIP federal grant administration requirements); and
- g.** Contractor shall not expend, and Contractor shall include a provision in any Subcontract that its Subcontractor shall not expend, any of the funds paid under this Contract for roads, bridges, stadiums, or any other item or service not covered under the OHP.

16. Mental Health Parity

Contractor shall adhere to CMS guidelines regarding Mental Health Parity detailed below:

- a.** If Contractor does not include an aggregate lifetime or annual dollar limit on any medical/surgical benefits or includes an aggregate lifetime or annual dollar limit that applies to less than one-third of all medical/surgical benefits provided to enrollees, it may not impose an aggregate lifetime or annual dollar limit, respectively, on mental health or substance use disorder benefits;
- b.** If Contractor includes an aggregate lifetime or annual dollar limit on at least two-thirds of all medical/surgical benefits provided to enrollees, it must either apply the aggregate lifetime or annual dollar limit both to the medical/surgical benefits to which the limit would otherwise apply and to mental health or substance use disorder benefits in a manner that does not distinguish between the medical/surgical benefits and mental health or substance use disorder benefits; or not include an aggregate lifetime or annual dollar limit on mental health or substance use disorder benefits that

is more restrictive than the aggregate lifetime or annual dollar limit, respectively, on medical/surgical benefits;

- c.** If Contractor includes an aggregate lifetime limit or annual dollar amount that applies to one-third or more but less than two-thirds of all medical/surgical benefits provided to enrollees, it must either impose no aggregate lifetime or annual dollar limit on mental health or substance use disorder benefits; or impose an aggregate lifetime or annual dollar limit on mental health or substance use disorder benefits that is no more restrictive than an average limit calculated for medical/surgical benefits in accordance with 42 CFR 438.905(e)(ii);
- d.** Contractor must not apply any financial requirement or treatment limitation to mental health or substance use disorder benefits in any classification that is more restrictive than the predominant financial requirement or treatment limitation of that type applied to substantially all medical/surgical benefits in the same classification furnished to enrollees (whether or not the benefits are furnished by Contractor).
- e.** If a member is provided mental health or substance use disorder benefits in any classification of benefits (inpatient, outpatient, emergency care, or prescription drugs), mental health or substance use disorder benefits must be provided to the member in every classification in which medical/surgical benefits are provided;
- f.** Contractor may not apply any cumulative financial requirements for mental health or substance use disorder benefits in a classification (inpatient, outpatient, emergency care, prescription drugs) that accumulates separately from any established for medical/surgical benefits in the same classification;
- g.** Contractor may not impose NQTLs for mental health or substance use disorder benefits in any classification unless, under the policies and procedures of Contractor as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the NQTL to mental health or substance use disorder benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation for medical/surgical benefits in the classification;
- h.** Contractor shall provide all necessary documentation and reporting required by OHA to establish and demonstrate compliance with 42 CFR part 438, subpart K regarding parity in mental health and substance use disorder benefits.
- i.** Contractor shall use processes, strategies, evidentiary standards or other factors in determining access to out of network providers for mental health or substance use disorder benefits that are comparable to and applied no more stringently than, the processes, strategies, evidentiary standards or other factors in determining access to out of network providers for medical/surgical benefits in the same classification.

EXHIBIT L
PERFORMANCE STANDARDS

A. General Performance Standards

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

B. Staff Standards

Contractor will provide the following for all staff who are in direct contact with County clients:

- Completion of a successful criminal history records check through the Background Check Unit, a Shared Service of the Department of Human Services and the Oregon Health Authority and compliant with ORS 181A.200 and OAR 943-007-0001 to 943-007-0501;
 - Appropriate education and academic degrees;
 - Licenses or certificates, as required; and
 - Relevant work history or qualifications.

C. Monitoring

County shall monitor services provided by Contractor and has the right to require Contractor's compliance with established standards and performance requirements relative to the services provided, administrative and fiscal management, and with all obligations and conditions stated in this Contract.

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

D. Abuse Reporting

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

E. Confidentiality

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

EXHIBIT M
CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR
(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result;
AND
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- _____ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- _____ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- _____ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- _____ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- _____ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature _____

Date _____

Contractor Printed Name: _____

EXHIBIT N
QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT

This Qualified Service Organization Business Associate Agreement (“Agreement”) is entered into as of _____ (“Effective Date”) by and between **Clackamas County Health, Housing and Human Services, Behavioral Health Division** (“Covered Entity”), Health Centers Division Alcohol and Drug Treatment Program (“Program”) and **The Living Room** (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996 and its regulations (“HIPAA”), and Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2 (“Confidentiality Rule”).

RECITALS

Whereas, the Covered Entity has engaged the services of the Business Associate as defined under 45 CFR §160.103 for or on behalf of the Covered Entity;

Whereas, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement (“Services Agreement”);

Whereas, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;

Whereas, the Parties agree to establish safeguards for the protection of such information;

Whereas, the Covered Entity and Business Associate desire to enter into this Agreement to address certain requirements under the HIPAA Rules **and** the Confidentiality Rule;

Now, therefore, the parties hereby agree as follows:

SECTION I – DEFINITIONS

- 1.1 “Breach” is any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
 - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within a Workforce member’s course and scope of employment or placement;
 - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Workforce members; and
 - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Disclose” or “disclosure” shall have the meaning given to such terms under the Confidentiality Rule, 42 CFR §2.11.
- 1.5 “Effective Date” shall be the Effective Date of this Agreement.
- 1.6 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that

- the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Agreement.
- 1.7 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
 - 1.8 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.
 - 1.9 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
 - 1.10 “Individually Identifiable Health Information” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §160.103.
 - 1.11 “Program” shall have the meaning given to such term under the Confidentiality Rule, 42 CFR §2.11.
 - 1.12 “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to an Individual; and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the HIPAA Rules, 45 CFR §160.103 and §164.501.
 - 1.13 “Protected Information” shall mean PHI provided by the Covered Entity to Business Associate or created, maintained, transmitted or received by Business Associate on Covered Entity’s behalf.
 - 1.14 “Qualified Service Organization” shall have the meaning defined under the Confidentiality Rule, 42 CFR §2.11.
 - 1.15 “Required by Law” shall have the meaning given to such phrase in 45 CFR §164.103.
 - 1.16 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
 - 1.17 “Security Incident” shall have the meaning given to such phrase in 45 CFR §164.304.
 - 1.18 “Unsecured Protected Health Information” shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in accordance with 45 CFR §164.402.
 - 1.19 Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is under the direct control of such Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate.

SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;

- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement;
- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI. Notwithstanding the preceding language of this subsection, Business Associate acknowledges that PHI obtained by the Business Associate relating to individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule. This information received from the Covered Entity, is protected by the Confidentiality Rule and therefore the Business Associate is specifically prohibited from re-disclosing such information to agents or subcontractors without specific written consent of the subject Individual;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
- 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.10 To comply with the confidentiality, disclosure and re-disclosure requirements of the Confidentiality Rule as applicable;
- 2.11 To resist any efforts in judicial proceedings any efforts to obtain access to the PHI protected by the Confidentiality Rule except as expressly provided for in the Confidentiality Rule;
- 2.12 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;

- 2.13 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such electronic PHI agrees to implement reasonable and appropriate security measures to protect the PHI. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
- 2.14 To retain records related to the PHI hereunder for a period of six (6) years unless this Agreement is terminated prior thereto. In the event of termination of this Agreement, the provisions of Section V of this Agreement shall govern record retention, return or destruction;
- 2.15 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
- 2.16 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

SECTION III – THE PARTIES AGREE TO THE FOLLOWING PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE:

- 3.1 The Covered Entity and the Business Associate agree that this Agreement constitutes a Qualified Service Organization Agreement as required by the Confidentiality Rule. Accordingly, information obtained by the Business Associate relating to Individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule.
- 3.2 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.3 Except as otherwise limited in this Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the Confidentiality or HIPAA Rules if done by the Covered Entity; and,
- 3.4 Except as otherwise limited in this Agreement, the Business Associate may:
 - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate so long as such use is also permitted by the Confidentiality Rule; and,

- b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. PHI that is also subject to the Confidentiality Rule cannot be disclosed to a third party except as permitted under the Confidentiality Rule.

SECTION IV – NOTICE OF PRIVACY PRACTICES

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. The Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by the Covered Entity, except as set forth in Section 3.3 above.

SECTION V – BREACH NOTIFICATION REQUIREMENTS

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
 - a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
 - b. By notice in plain language including and to the extent possible:
 - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
 - 4) A brief description of what the Covered Entity and/or Business Associate involved is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
 - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.

- c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
 - d. Provided notice to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.
- 5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

SECTION VI – TERM AND TERMINATION

- 6.1 **Term.** The term of this Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI provided by the Covered Entity to the Business Associate, or created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- 6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Agreement if cure is not reasonably possible. If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach. Upon the Business Associate's knowledge of a material breach of this Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Agreement and Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Agreement if the Covered Entity has breached a material term of this Agreement if cure is not reasonably possible.
- 6.3 **Effect of Termination.**
- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
 - b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect

to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

SECTION VII – GENENERAL PROVISIONS

- 7.1 **Regulatory references.** A reference in this Agreement to the Confidentiality Rule, HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.
- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification by Covered Entity.** Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution Covered Entity agrees to indemnify, defend and hold harmless the Business Associate and its employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Covered Entity’s breach of Section 4.1 of this Agreement. Accordingly, on demand, Covered Entity shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Covered Entity’s breach hereunder. Covered Entity’s obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.5 **Indemnification by Business Associate.** Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate’s breach of Section II and III of this Agreement. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Business Associate’s breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.6 **Survival.** The respective rights and obligations of Business Associate under Section II of this Agreement shall survive the termination of the Services Agreement and this Agreement.
- 7.7 **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to first comply with the Confidentiality Rule and second to comply with the HIPAA Rules.

(Signature Page for QSOBAA Follows)



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 24, 2019

Board of Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between Clackamas County and the City of Canby to Transfer Permitting Authority and Maintenance Responsibility for a Portion of Township Road (County Road #47, DTD #31021) to the City

Purpose/Outcomes	Transfers permitting authority and maintenance responsibility for construction on portions of Township Road to the City of Canby.
Dollar Amount and Fiscal Impact	Cost savings in the form of staff time and materials related to the permitting, maintenance and oversight of this roadway.
Funding Source	None
Duration	Upon execution; permanent
Previous Board Action	N/A
Strategic Plan Alignment	Build a strong infrastructure Build public trust through good government
Contact Person	Rick Maxwell, Engineering Technician; 503-742-4671

Clackamas County currently has jurisdiction, including permitting authority, enforcement of road standards and maintenance responsibility of Township Road. An approximately 1/2 mile long section of Township Road is surrounded by the City of Canby yet lies outside the current City boundary and it is agreed that the City is best suited to exercise primary authority over this section of Township Road. This intergovernmental agreement addresses transferring rights and duties as "road authority," including permitting authority, development of road standards, and maintenance responsibility to the City for this portion of Township Road.

Transferring the rights and duties as road authority for this portion of Township Road to the City of Canby will eliminate confusion and improve efficiencies of maintenance and public service. The City will perform all construction and reconstruction; improvement or repair and maintenance; review and issuance of access permits; establishment of roadway standards; acquisition of right of way; storm water and drainage facility repair and maintenance; and review and issuance of street opening permits. The County will retain official jurisdiction of this portion of the roadway until such time as the City of Canby completes the annexation process and requests a transfer of jurisdiction of this portion of Township Road as defined in this Intergovernmental Agreement.

This agreement has been reviewed and approved by County Counsel and signed by the Canby City Manager.

RECOMMENDATION:

Staff respectfully recommends that the Board approve this Intergovernmental Agreement with the City of Canby to transfer rights and duties as road authority for a portion of Township Road to the City.

Respectfully submitted,

Rick Maxwell – Engineering Technician
Attachments: IGA, Exhibit City Resolution

RESOLUTION NO. 1306

**A RESOLUTION REQUESTING AN INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF CANBY AND CLACKAMAS COUNTY RELATED TO
ROAD MAINTENANCE AND PERMITTING AUTHORITY OF TOWNSHIP ROAD**

WHEREAS, Chapter 190 authorizes local governments to enter into intergovernmental agreements for the performance of any or all functions and activities that a local government, its officers or agencies, have the authority to perform, including the authority to perform as the “Road Authority” related to maintenance and permitting responsibilities for roads; and

WHEREAS, Township Road is a County Road, as defined in ORS 368.001, lying outside, but adjacent to the boundaries of the City.; and

WHEREAS, the Parties agree that the City is best suited to assume primary responsibility for maintenance and permitting of Township Road, approximately 110,000 square feet in area, as more particularly depicted in Exhibit “A” which is attached hereto and incorporated herein (“Township.”).

WHEREAS, transfer of responsibility with regards to Township will lead to efficient and consistent road maintenance activities and reduce any confusion on the part of the public as to which Party is responsible for the condition and maintenance of Township, which primarily serves the residents of the City; and

WHEREAS, the Parties acknowledge that jurisdiction of Township should transfer to the City once annexed into the City’s boundary, and that this Agreement will no longer be necessary once Township is annexed into the City and jurisdiction over Township has been transferred; and

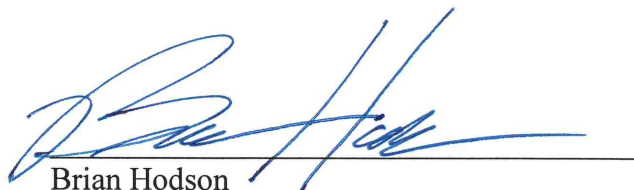
WHEREAS, it is the intent of the Parties that the County transfer as much of its responsibility under ORS 368 with regards to Township as may be allowed under state law in order to grant the City control of Township prior to the annexation and jurisdictional transfer of Township.

NOW, THEREFORE, BE IT RESOLVED by the Canby City Council, as follows:

The City agrees to assume responsibility for Road Authority activities (as outlined in Section 3) for Township and shall be surrendered to the City pursuant to the terms and conditions of the Agreement. The portion of Township subject to the Agreement is approximately 110,000 square feet in area, as more particularly depicted and specifically described in Exhibit “A”. The City agrees to assume responsibility from the date that the County concludes its hearing and decision on the matter by approval of the **INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF CANBY AND CLACKAMAS COUNTY RELATED TO ROAD MAINTENANCE AND PERMITTING AUTHORITY OF TOWNSHIP ROAD**, Exhibit “A”.

This resolution will take effect on December 5, 2018.

ADOPTED this 5th day of December 2018 by the Canby City Council.



Brian Hodson
Mayor

ATTEST:



Kimberly Scheafer, MMC
City Recorder

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF CANBY AND
CLACKAMAS COUNTY RELATED TO ROAD MAINTENANCE AND PERMITTING
AUTHORITY OF TOWNSHIP ROAD**

This agreement (the "Agreement") is made on the date all required signatures have been obtained, between the City of Canby ("CITY"), a political subdivision of the State of Oregon, and Clackamas County ("COUNTY"), a political subdivision of the State of Oregon, pursuant to ORS Chapter 190 (Intergovernmental Cooperation), collectively referred to as the "PARITES" and each a "PARTY."

RECITALS

WHEREAS, ORS Chapter 190 authorizes local governments to enter into intergovernmental agreements for the performance of any or all functions and activities that a local government, its officers or agencies, have the authority to perform, including the authority to perform as the "Road Authority" related to maintenance and permitting responsibilities for roads;

WHEREAS, Township Road is a County Road, as defined in ORS 368.001, lying outside, but adjacent to the boundaries of the City.

WHEREAS, the Parties agree that the City is best suited to assume primary responsibility for maintenance and permitting of Township Road, approximately 110,000 square feet in area, as more particularly depicted on Exhibit "A" which is attached hereto and incorporated herein ("Township").

WHEREAS, transfer of responsibility with regards to Township will lead to efficient and consistent road maintenance activities and reduce any confusion on the part of the public as to which Party is responsible for the condition and maintenance of Township, which primarily serves the residents of the City;

WHEREAS, the Parties acknowledge that jurisdiction of Township should transfer to the City once annexed into the City's boundary, and that this Agreement will no longer be necessary once Township is annexed into the City and jurisdiction over Township has been transferred; and

WHEREAS, it is the intent of the Parties that the County transfer as much of its responsibility under ORS 368 with regards to Township as may be allowed under state law in order to grant the City control of Township prior to the annexation and jurisdictional transfer of Township.

AGREEMENT

NOW, THEREFORE, 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:

1. **Term.** This Agreement shall be effective upon execution, and shall expire automatically at the time Township has been annexed into the City and the City assumes jurisdiction of Township pursuant to ORS 368 and/or ORS 373.
2. **Transfer of Authority.**
 - A. Responsibility for Road Authority activities (as outlined in Section 3) for Township shall be surrendered to the City pursuant to the terms and conditions of this Agreement. The portion of Township subject to this Agreement is approximately 110,000 square feet in area, as more particularly depicted on Exhibit "A" and more specifically described as follows:

All that portion of Township Road, County Road No. 47, Department of Transportation and Development maintenance No. 31021; Situated in the southwest 1/4 of Section 34, T. 3S., R. 1E., W.M. and the northeast 1/4 of Section 03, T. 4S., R. 1E., W.M., as depicted on Exhibit A, attached hereto, lying west of and between the westerly right of way line of Mulino Road (mile point 1.60) and westerly right of way line of the Molalla Forest Highway (mile point 2.07), being a total of approximately 2,550 feet long, varying in width.

Containing 110,000 square feet, more or less.
 - B. To facilitate the performance of responsibilities under this Agreement, the City hereby accepts responsibility for Road Authority activities (as outlined in Section 3) for Township, as described herein.
 - C. The City shall be solely responsible for all costs associated with the Road Authority activities assumed by the City through this Agreement.
3. **Road Authority Obligations.** For purposes of this Agreement, the Road Authority activities include, but are not necessarily limited to, the following:
 - A. Construction and reconstruction (including capital improvements);
 - B. Improvement or repair, and maintenance;
 - C. Maintenance and repair of related facilities within the roadway, including but not limited to storm water drainage facilities, traffic control devices, street lights and roadside barriers;
 - D. Timely elimination or mitigation of known hazards to the road users;
 - E. Issuance of permits for work or the establishment of roadway standards on Township; and
 - F. All other responsibilities the County may have under ORS 368 with regards to Township which may be assumed by the City under state law.

4. **Maintenance Standard.** Any maintenance on Township required by this Agreement shall be carried out in a manner that is similar to other roads with similar features, function, and characteristics under the City's jurisdiction.
5. **Termination.**
 - A. The County and the City, by mutual written agreement, may terminate this Agreement at any time.
 - B. Either the County or the City 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 may terminate this Agreement in the event the County fails to receive expenditure authority sufficient to allow the County, in the exercise of its reasonable administrative discretion, to continue to 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 either this Agreement is prohibited or the County is prohibited from paying for such work from the planned funding source.
 - D. The County or the City shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
 - E. Nothing herein shall prevent the Parties from meeting to mutually discuss the Project. Each Party shall use best efforts to coordinate with the other to minimize conflicts.
 - F. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
6. **Indemnification.**
 - A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the County agrees to indemnify, save harmless and defend the City, 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 (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.

- B. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the City 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 (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the City has a right to control.

7. 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 City 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. County, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Applicable Law.** The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. **Access to Records.** The Parties acknowledge and agree that each Party, the federal government, and their duly authorized representatives shall have access to each Party's books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six years after final payment. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.

- E. **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.
- F. **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.
- G. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of this Agreement. 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.
- H. **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.
- I. **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.
- J. **No Third-Party Beneficiary.** City 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.
- K. **No Assignment.** No Party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of the other Party, which consent may be withheld for any reason. The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties.

- L. **Counterparts.** This Agreement may be executed in any number of counterparts (electronic, facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
- M. **Force Majeure.** Neither City nor County shall be held responsible for delay or default caused by events outside of the City or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. Each Party 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.
- N. **Authority.** Each Party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Agreement.
- 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.

CLACKAMAS COUNTY

Chair

Date

Recording Secretary

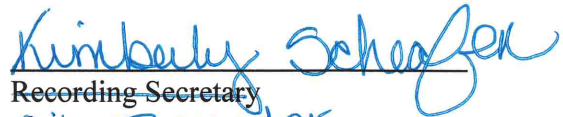
CITY OF CANBY



Mayor

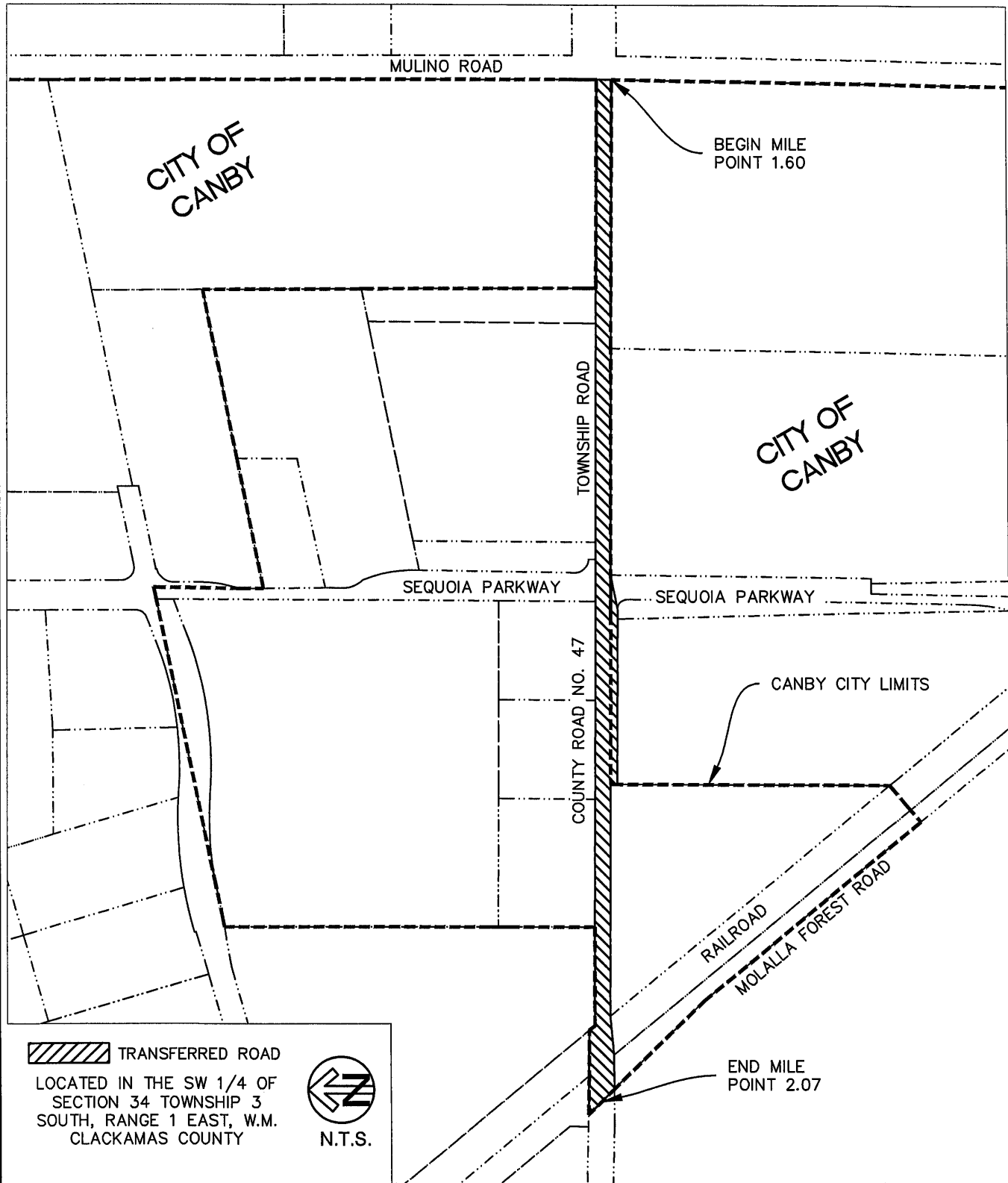
December 5, 2018


Date



Recording Secretary
City Recorder

EXHIBIT "A"



 TRANSFERRED ROAD
 LOCATED IN THE SW 1/4 OF
 SECTION 34 TOWNSHIP 3
 SOUTH, RANGE 1 EAST, W.M.
 CLACKAMAS COUNTY



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



BY: R. MAXWELL DATE: 11/2/2018
 TRANSFER OF ROAD AUTHORITY
 TOWNSHIP ROAD
 COUNTY ROAD NO. 47

SHEET
 1 OF 1



DAN JOHNSON
DIRECTOR

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

January 24, 2019

Board of Commissioners
Clackamas County

Members of the Board:

A Board Order Adopting the Vacation of a Portion of Nixon Avenue

Purpose/Outcomes	Vacates a Portion of Nixon Avenue
Dollar Amount and Fiscal Impact	Application and processing fee received.
Funding Source	N/A
Duration	Upon execution; permanent vacation.
Previous Board Action	N/A
Strategic Plan Alignment	Build Public Trust Through Good Government Grow a Vibrant Economy
Contact Person	Doug Cutshall, Engineering Technician 503-742-4669

BACKGROUND

Nixon Avenue, County Road Number 1995, was dedicated on September 6, 1911, in the Plat of Milwaukie Hillcrest, Plat Number 311, being a Re-plat of a Portion of Milwaukie Park, Plat Number 155. A portion of Nixon Street (per plat) was vacated in 1975 through Board Order 75-1689. The 1975 road vacation left a triangular shaped portion of excess road right of way that is of no public use. The petitioner's driveway utilizes most of the triangle area and they believe it would be in the county's interest to vacate said portion.

The triangular shaped portion to be vacated contains approximately 984 square feet, of right-of-way that serves no public need and is not a benefit to the traveling public. Vacating this triangular shaped portion of excess road right of way will not deprive public access to adjoining properties and will not affect area traffic flow.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Department of Transportation Maintenance, Engineering, Planning, Traffic Divisions, and all local utility companies, have been contacted and do not have any objections to this vacation.

County Counsel has reviewed and approved this vacation.

RECOMMENDATION

Staff respectfully recommends that the Board adopt the attached Board Order approving the vacation of this triangular shaped portion of excess road right of way.

Sincerely,

Douglas Cutshall
D.T.D. Engineering Technician

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the matter of the Vacation of a
Portion of Nixon Avenue, situated
in Section 1, T.2 S., R.1 E., W.M.
Clackamas County, Oregon



Board Order No. _____
Page 1 of 1

This matter coming before the Board of County Commissioners at this time and appearing to the Board that in accordance with ORS 368.341 and pursuant to ORS 368.351, a petition has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, and a written report finding this vacation to be in the public interest from the County Road Official, Dan Johnson, have been submitted in the matter of the vacation of a portion of Nixon Avenue, described as follows:

All of that portion of Nixon Avenue, County Road 1995, situated in the southeast ¼ of Section 1, T.2 S., R.1 E., W.M., and the Plat of Milwaukie Hillcrest, Plat No. 311, Clackamas County Plat Records, lying east of the northerly projection of the east right of way line of Fernridge Avenue, Local Access Road No.P1003, depicted on attached Exhibit "A", and by this reference made a part hereof.

WHEREAS, the Board having read said petition and report from the County Road Official and having determined the vacation of the above described portion of roadway to be in the public interest; and,

WHEREAS, the Clackamas County Department of Transportation and Development's divisions of Transportation Maintenance, Engineering, Planning, and Traffic Engineering, along with all local utility companies, have been contacted and do not have any objections to this vacation, provided all utility rights be reserved; now therefore,

IT IS HEREBY ORDERED that the attached described portion of a Nixon Avenue, containing 984 square feet, more or less, be vacated; and,

IT IS FURTHER ORDERED that rights for all existing utilities within the vacated road be reserved. Nothing contained herein shall cause or require the removal or abandonment of any storm or sanitary sewer, water main, gas line, conduit of any kind, wires, or poles which are now installed in said right-of-way and used or intended to be used for any public service or utility. In addition, rights are reserved to access, maintain, repair, construct or reconstruct, install, renew, and enlarge all utilities that are now used for any public service or utility; and,

IT IS FURTHER ORDERED, that this Order and attached exhibits be recorded in the Deed Records for Clackamas County and that a copy be filed with the County Surveyor, County Assessor, and Finance Office/Fixed Assets.

ADOPTED this ____ day of _____, 2019

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

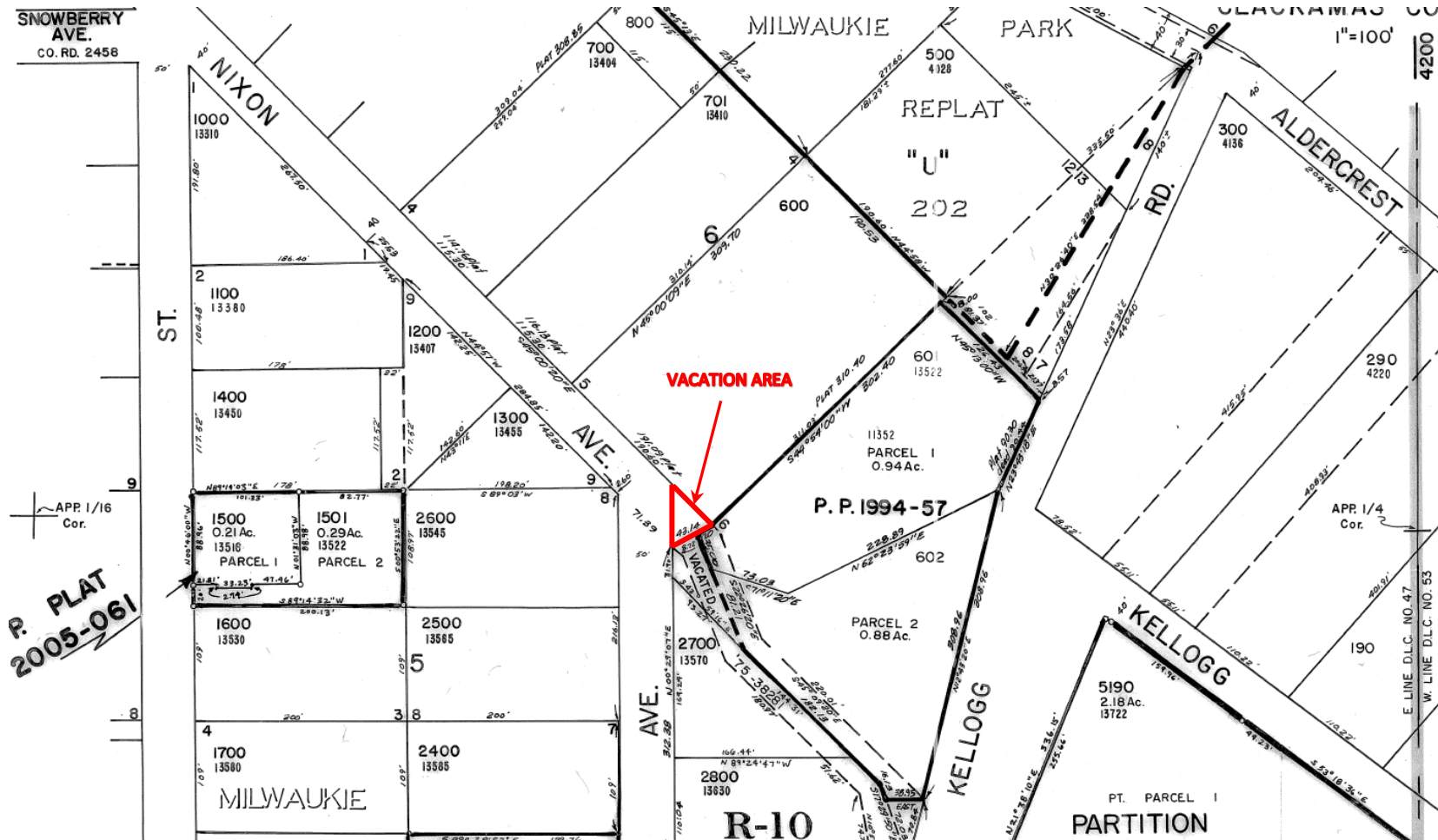
EXHIBIT A

PROPOSED VACATION OF A PORTION OF NIXON AVENUE

Depicted below in red

Located in the SE 1/4 of Section 1, T.2S., R.1E., W.M.

Clackamas County, Oregon



MEMORANDUM

TO: Board of Commissioners

FROM: Dan Johnson, Director D.T.D.

DATE: December 27, 2018

SUBJ: **ROAD OFFICIAL'S REPORT FOR THE VACATION OF A PORTION OF NIXON AVE**

LOCATION: A triangular shaped portion of Nixon Avenue, situated in the SE1/4 of Section 1, T.2 S., R.1 E., W.M. and Milwaukie Hillcrest, Plat No. 311

FACTS AND FINDINGS: Nixon Avenue, County Road Number 1995, was dedicated on September 6, 1911, in the Plat of Milwaukie Hillcrest, Plat Number 311, being a Re-plat of a Portion of Milwaukie Park, Plat Number 155. A portion of Nixon Street (per plat) was vacated in 1975 through Board Order 75-1689. The 1975 road vacation left a triangular shaped portion of excess road right of way that is of no public use. The petitioner's driveway utilizes most of the triangle area and they believe it would be in the county's interest to vacate said portion.

The triangular shaped portion to be vacated contains approximately 984 square feet of right-of-way that serves no public need and is not a benefit to the traveling public. Vacating this triangular shaped portion of excess road right of way will not deprive public access to adjoining properties and will not affect area traffic flow.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting the public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Department of Transportation and Development's divisions of Transportation Maintenance, Engineering, Planning, and Traffic Engineering, along with all local utility companies have been contacted and do not have any objections to this vacation providing that rights are reserved for existing utilities.

After considering traffic impacts, fiscal impacts, and social impacts, it appears to be in the public interest to vacate the area petitioned.

It is my assessment to support the subject vacation.

Pursuant to ORS 368.351 and County policy, the Board may make its determination in the matter of this vacation without a public hearing. This is allowed when there is acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated, this Road Official's Report is submitted, and there is no controversy related to the proposed vacation.



DAN JOHNSON
DIRECTOR

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

January 24, 2019

Board of Commissioners
Clackamas County

Members of the Board:

**A Board Order Adopting the Vacation of a
Non-Maintained Local Access Road**

Purpose/Outcomes	Vacates a Non-maintained Local Access Road
Dollar Amount and Fiscal Impact	Application and processing fee received.
Funding Source	N/A
Duration	Upon execution; Permanent road vacation
Previous Board Action	N/A
Strategic Plan Alignment	Build Public Trust Through Good Government Grow a vibrant economy
Contact Person	Doug Cutshall, Engineering Technician 503-742-4669

BACKGROUND

This Non-Maintained Local Access Road, situated in the SE1/4 of Section 2, T.2 S., R.2 E., W.M., was created by an exception in a Warranty Deed from W.W. Hubbard to H. Cook, dated November 8, 1946, Clackamas County Deed Records. This Non-Maintained Local Access Road once provided access to several properties owned by the Hubbard family. Development in Happy Valley and the surrounding area has diminished the need for this narrow Non-Maintained Local Access Road. There are no immediate plans for developing the petitioners adjoining property. Vacating this Non-Maintained Local Access Road will not deprive public access to adjoining properties.

The Non-Maintained Local Access Road to be vacated is 20 feet wide and, 659 feet long. This right-of-way serves no public need and is not a benefit to the traveling public.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Department of Transportation and Development's divisions of Transportation Maintenance, Engineering, Planning, and Traffic Divisions, and all local

utility companies, have been contacted and do not have any objections to this vacation, provided all utility and access rights are reserved for P.G.E. and W.E.S.

County Counsel has reviewed and approved this vacation.

RECOMMENDATION

Staff respectfully recommends that the Board adopt the attached Board Order approving the vacation of this Non-Maintained Local Access Road.

Sincerely,

Douglas Cutshall
Engineering Technician DTD

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the matter of the Vacation of
a Non-maintained Local Access
Road, situated In the SE ¼ of
Section 2, T. 2 S., R.2 E., WM
Clackamas County, Oregon



Order No.
Page 1 of 1

This matter coming before the Board of County Commissioners at this time and appearing to the Board that in accordance with ORS 368.341 and pursuant to ORS 368.351, a petition has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, and a written report finding this vacation to be in the public interest from the County Road Official, Dan Johnson, have been submitted in the matter of the vacation of a portion of a Non-maintained Local Access Road, described as follows:

All that portion of a Non-maintained Local Access Road situated in the southeast quarter of Section 2, T.2 S., R.2 E., WM, Clackamas County, Oregon, as more particularly described and shown on attached Exhibits "A" and "B".

WHEREAS, the Board having read said petition and report from the County Road Official and having determined the vacation of the above described portion of roadway to be in the public interest; and,

WHEREAS, Clackamas County Department of Transportation and Development's divisions of Transportation Maintenance, Engineering, Planning, and Traffic Engineering, along with all local utility companies, have been contacted and do not have any objections to this vacation provided that utility rights are reserved; now therefore,

IT IS HEREBY ORDERED that the attached described Non-maintained Local Access Road, containing 13,173 square feet, more or less, be vacated; and,

IT IS FURTHER ORDERED that rights for all existing utilities within the vacated Non-maintained Local Access Road, be reserved, for Water Environment Services, for access over the existing road and, existing sewer line and, Portland General Electric. Nothing contained herein shall cause or require the removal or abandonment of any storm or sanitary sewer, water main, gas line, conduit of any kind, wires, or poles which are now installed in said right-of-way and used or intended to be used for any public service or utility. In addition, the rights are reserved to access, maintain, repair, construct or reconstruct, install, renew, and enlarge all utilities that are now used for any public service or utility; and,

IT IS FURTHER ORDERED, that this Order and attached exhibits be recorded in the Deed Records for Clackamas County and that a copy be filed with the County Surveyor, County Assessor, and Finance Office/Fixed Assets.

ADOPTED this _____ day of _____, 2019.
BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Exhibit “A”

Vacation of a Local Access Road
Date: November 15, 2018

Map No. 22E002DC
Page 1 of 1

VACATION OF A LOCAL ACCESS ROAD

A strip of land for road purposes, situated in the southeast quarter of Section 2, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, being the same 20 foot strip of property for public road purposes described in Deed Book 380, Page 103, Clackamas County Deed Records, as depicted on attached Exhibit “B”, which by this reference is made a part hereof. Except therefrom any portion lying within the right of way of 132nd Avenue County Road No. 2591.

Containing 13,173 square feet, more or less.

Exhibit "B"

Public Road to be vacated highlighted in red.
Situating in the SE ¼ of Section 2, T.2 S., R.2 E., W.M. Clackamas County,
Oregon



MEMORANDUM

TO: Board of Commissioners

FROM: Dan Johnson, Director D.T.D.

DATE: January 11, 2019

SUBJ: **ROAD OFFICIAL'S REPORT FOR THE VACATION OF A NON-MAINTAINED LOCAL ACCESS ROAD**

LOCATION: A Non-Maintained Local Access Road, is situated in the SE1/4 of Section 2, T.2 S., R.2 E., W.M.

FACTS AND FINDINGS: The subject Non-Maintained Local Access Road, was created by an exception in a Warranty Deed from W.W. Hubbard to H. Cook, dated November 8, 1946, Clackamas County Deed Records. This Non-Maintained Local Access Road once provided access to several properties owned by the Hubbard family. Development in Happy Valley and the surrounding area has depleted the need for this narrow Non-Maintained Local Access Road. The petitioners have no immediate plans for their property once the road has been vacated. Vacating this portion of Non-Maintained Local Access Road will not deprive public access to adjoining properties.

The portion of Non-Maintained Local Access Road to be vacated is a 20 foot wide, 640 foot long, right-of-way that serves no public need and is not a benefit to the traveling public. Vacating this Non-Maintained Local Access Road will not affect area traffic flow.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and, acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Department of Transportation and Development's divisions of Transportation Maintenance, Engineering, Planning, and Traffic Engineering, along with all local utility companies have been contacted and do not have any objections to this vacation.

After considering traffic impacts, fiscal impacts, and social impacts, it appears to be in the public interest to vacate the area petitioned.

It is my assessment to support the subject vacation.

Pursuant to ORS 368.351 and County policy, the Board may make its determination in the matter of this vacation without a public hearing. This is allowed when there are acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated, this Road Official's Report is submitted, and there is no controversy related to the proposed vacation.



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 24, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of a Supplemental Project Agreement No. 32756 with
Oregon Department of Transportation for the
S. Ivy Street (Canby) Project**

Purpose/Outcomes	Using State Funded Local Project (SFLP) Program funds, this agreement allows Clackamas County to proceed with design and construction of sidewalk and bicycle improvements to South Ivy Street between OR99E and Lee Elementary School. The proposed improvements include constructing sidewalks and bike lanes on both sides of the street where needed and other associated improvements.
Dollar Amount and Fiscal Impact	Overall Project Cost Estimate: \$2,188,815 State Funded Local Project Program funds: \$1,751,045 City of Canby match (20%): \$437,762 County additional match (if required): up to \$406,918
Funding Source	State Funded Local Project Program (SFLP) Funds, City of Canby Funds, and County Road Funds.
Duration	Completion of the Project or ten (10) years following the date of final execution, whichever is sooner.
Previous Board Action	07/13/17: BCC Approval of Supplemental Project Agreement 31172 01/24/19: Pending BCC Approval of Intergovernmental Agreement between Clackamas County and the City of Canby related to the South Ivy Street Sidewalk Improvement Project
Strategic Plan Alignment	This project will “Build a strong infrastructure” and “Ensure safe, healthy and secure communities” by constructing sidewalks and bicycle lanes.
Contact Person	Joel Howie, Civil Engineering Supervisor 503-742-4658

BACKGROUND:

This is a project agreement between Clackamas County and the Oregon Department of Transportation (ODOT) to construct improvements along South Ivy Street from OR99E to Lee Elementary School. The project will provide enhanced bicycle and pedestrian connectivity and include constructing bike lanes and sidewalks on both sides of the road where needed, ADA improvements, and installing a signal at the intersection of South Ivy Street and Township Road.

This agreement replaces a previous three-way agreement (Agreement #31172) between the City of Canby, ODOT and the County. The previous agreement included federal funds and this new agreement replaces the federal funds with State Funded Local Project Program funds. The state funds will be matched by City of Canby and County Road Funds, if required. A separate Staff Report requesting approval of an Intergovernmental Agreement with the City of Canby to transfer the jurisdiction of Ivy Street to the City is placed on the same BCC Consent Agenda as this IGA.

This agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approve the attached Supplemental Project Agreement with ODOT for the S. Ivy Street (Canby) Project as listed in the agreement.

Respectfully submitted,

Joel Howie,
Civil Engineering Supervisor

LOCAL AGENCY AGREEMENT
State Funded Local Project Program
Project Name S Ivy Street (Canby)

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT;" and CLACKAMAS COUNTY, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. Agency wishes to exchange unspent federal funds previously allocated to the Project for state funds, in order to fund the Project using state funding. State has determined that Agency is eligible for state funds for the work to be performed under this Agreement through the State Funded Local Project Program. The Parties enter into this Agreement to exchange these funds, identify the Project that will be funded with the state funds, and describe the method State will use to reimburse Agency for work performed on the Project using the state funds, including establishing invoicing requirements and the proportional reimbursement rate.
2. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, state agencies may enter into cooperative agreements with counties, cities, and units of local government for the performance of any or all functions and activities that a party to the Agreement, its officers, or agents have the authority to perform.
3. S Ivy Street is a part of the county road system under the jurisdiction and control of Agency.
4. The Parties previously entered into Agreement Number 31172 wherein the Agency would deliver the S. Ivy Street project on behalf of the City of Canby using federal funds. Agency has decided to exchange federal funds for state funds through the State Funded Local Program to deliver this project. Agreement 31172 will be terminated prior to or in conjunction with the execution of this Agreement.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. State and Agency agree to Agency delivering the S. Ivy Street project, hereinafter referred to as "Project." The Project includes the following improvements on S. Ivy Street between OR-99E and Lee Elementary School: (1) construction of sidewalks and bike lanes on both sides of the street where needed, (2) construction of ADA improvements, (3) installation of a signal at the intersection of S. Ivy Street and Township Road, and (4) addressing a residential driveway within the intersection of S. Ivy Street and Township Road. The Project location and approximate limits are

shown the map Marked "Exhibit A," attached hereto and by this reference made a part hereof.

2. The total Project cost for the work to be performed under this Agreement is estimated at \$2,188,815, which is subject to change. Prior to exchanging funds, the federal share of the total Project cost is 1,751,045.
 - a. Per the 1:1 fund exchange ratio of state dollars to federal dollars, Agency will exchange \$1,751,045 of federal dollars allocated for this Project for \$1,751,045 of state dollars.
 - b. State funds under this Agreement are limited to \$1,751,045.
3. Upon receipt and approval of Agency's invoice(s), State shall proportionately reimburse Agency eighty (80) percent of eligible, actual costs incurred in carrying out the Project, up to the maximum amount of state funds committed for the Project.
4. Agency is solely responsible for any and all costs incurred in excess of the state funds identified in this Agreement. Any unspent state funds will be retained by State and will not be available for Agency use. State funds transferred to Agency must be used for the Project.
5. To be eligible for reimbursement, expenditures must comply with the requirements of Article IX, Section 3a of the Oregon Constitution. Eligible costs are defined as reasonable and necessary costs incurred by the Agency in performance of the Project.
6. The term of this Agreement will begin upon the date all required signatures are obtained and will terminate upon completion of the Project and final payment or ten (10) calendar years following the date of final execution, whichever is sooner.

AGENCY OBLIGATIONS

1. Agency shall perform the work described in TERMS OF AGREEMENT, Paragraph 1 of this Agreement.
2. **Americans with Disabilities Act Compliance:**
 - a. **State Highway:** For portions of the Project located on or along the State Highway System or a State-owned facility ("state highway"):
 - i. Agency shall utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;

- ii. Agency shall follow ODOT's processes for design, modification, upgrade, or construction of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
- iii. At Project completion, Agency shall send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form and to State's Project Manager for each curb ramp constructed, modified, upgraded, or improved as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/Pages/HwyConstForms1.aspx>

- iv. Agency shall promptly notify ODOT of Project completion and allow ODOT to inspect Project sidewalks, curb ramps, and pedestrian-activated signals located on or along a state highway prior to acceptance of Project by Agency and prior to release of any Agency contractor.
- v. Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. Agency shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction, to the greatest extent possible.

b. **Local Roads**: For portions of the Project located on Agency roads or facilities that are not on or along a state highway:

- i. Agency shall ensure that the Project, including all sidewalks, curb ramps, and pedestrian-activated signals, is designed, constructed and maintained in compliance with the ADA.
- ii. Agency may follow its own processes or may use ODOT's processes for design, modification, upgrade, or construction of Project sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current

Curb Ramp Inspection form, available at:
<http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/Pages/HwyConstForms1.aspx>;

Additional ODOT resources are available at:
<http://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>

ODOT has made its forms, processes, and resources available for Agency's use and convenience.

- iii. Agency assumes sole responsibility for ensuring that the Project complies with the ADA, including when Agency uses ODOT forms and processes. Agency acknowledges and agrees that ODOT is under no obligation to review or approve Project plans or inspect the completed Project to confirm ADA compliance.
 - iv. Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs and include accessibility features equal to or better than the features present in the existing pedestrian route. Agency shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations prior to the start of construction, to the greatest extent possible.
- c. Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that;
- i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Any repairs or removal of obstructions needed to maintain Project features in compliance with the ADA requirements that were in effect at the time of Project construction are completed by Agency or abutting property owner pursuant to applicable local code provisions,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.

- d. Maintenance obligations in this section shall survive termination of this Agreement.
3. Agency agrees that the Project shall be developed in conformance with the applicable American Association of State Highway and Transportation Officials (AASHTO) standards, including the current edition of A Policy on Geometric Design of Highways and Streets.
4. Agency shall follow the Buy America statute under Title 23, United States Code, Section 313. Such provision shall be included as part of the construction contract.
5. Agency shall submit all of the following items to State's Project Manager, at Project completion and prior to final payment:
 - a. Final Project completion Inspection form No. 734-5063 (completed with State's Project Manager);
 - b. Final Cost;
 - c. As-Constructed Drawings
6. Agency shall present invoices for the eligible, actual costs incurred by Agency on behalf of the Project directly to State's Project Manager listed in this Agreement for review and approval. Such invoices shall be in a form identifying the Project, Key Number, the Agreement number, the Project phase and amount charged to each (such as preliminary engineering, right of way, and construction), the invoice number, and will itemize all expenses for which reimbursement is claimed. Invoices shall be presented for periods greater than one month, based on actual expenses incurred, and must clearly specify the percentage of completion of the Project. Agency shall also include with the invoice a Project progress report or summary that describes work accomplished for the period being invoiced and work expected for the next invoicing period. Travel expenses will not be reimbursed.
7. Agency, or its consultant, shall conduct the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates in accordance with current state and federal laws and regulations; obtain all required permits; be responsible for all utility relocations; advertise for bid proposals; award all contracts; perform all construction engineering; and make all contractor payments required to complete the Project.
8. Agency or its consultant shall acquire all necessary right of way in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the State Right of Way Manual.
9. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i)

Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

10. Agency shall perform the services under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
11. All employers, including Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Agency shall ensure that each of its subcontractors complies with these requirements.
12. Agency shall, at its own expense, maintain, operate, and provide power as needed upon Project completion at a minimum level that is consistent with normal depreciation and/or service demand and throughout the useful life of the Project. State and Agency agree that the useful life of this Project is defined as 20 years. Maintenance and power responsibilities shall survive any termination of the Project Agreement.
13. Utility relocation or reconstruction may or may not be an eligible Project expense according to the following standard:
 - a. The expense is an eligible expense if the owner of the utility facility possesses a property right for its location on the public right of way.
 - b. The expense is not an eligible expense if the owner of the utility facility does not possess a property right for its location, but the facility exists on the public right of way solely under the permission of the Agency or other road authority, whether that permission is expressed or implied, and whether written or oral.
14. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within Agency's current appropriation or limitation of the current budget. Agency further agrees that they will only submit invoices to State for reimbursement on work that has been performed and paid for by Agency as described in this Agreement.
15. To the fullest extent permitted by law, and except to the extent otherwise prohibited under ORS 30.140, Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation

Commission and its members, Oregon Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260 (Claims), to the extent such Claims are caused, or alleged to be caused by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor. It is the specific intention of the Parties that State shall, in all instances, except to the extent Claims arise from the negligent or willful acts or omissions of the State, be indemnified from and against all Claims caused or alleged to be caused by the contractor or subcontractor.

16. Any such indemnification shall also provide that neither Agency's contractor and subcontractor nor any attorney engaged by Agency's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agency's contractor is prohibited from defending the State of Oregon, or that Agency's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor if the State of Oregon elects to assume its own defense.
17. If Agency enters into a construction contract for performance of work for the Project, then Agency will include provisions in that contract requiring its contractor to comply with the following:
 - a. Contractor and Agency shall name State as a third party beneficiary of the resulting contract.
 - b. To the fullest extent permitted by law, and except to the extent otherwise prohibited under ORS 30.140, Contractor shall indemnify, defend and hold harmless State from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, sub-contractors, or agents under the resulting contract.
 - c. Commercial General Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the resulting contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to State. This insurance shall include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage shall be written on an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence shall not be

less than **\$1,000,000** **\$2,000,000** **\$5,000,000** for each job site or location. Each annual aggregate limit shall not be less than **\$1,000,000** **\$2,000,000** **\$4,000,000** **10,000,000**.

- d. Automobile Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the resulting contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence shall not be less than \$1,000,000.
 - e. Additional Insured Endorsement. The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of the resulting contract will include State and its divisions, officers and employees as Additional Insured but only with respect to the Contractor's activities to be performed under the resulting contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.
 - f. Notice of Cancellation or Change. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to State. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of the resulting contract and shall be grounds for immediate termination of the resulting contract and this Agreement.
18. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts during the course of the Project and for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
19. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
20. Agency's Project Manager for this Agreement is Joel Howie, 150 Beaver Creek Road, Oregon City, OR 97045, (503)742-4658, JHowie@co.clackamas.or.us, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

STATE OBLIGATIONS

1. In consideration for the services performed under this Agreement, State shall

reimburse Agency eighty (80) percent of eligible costs incurred in carrying out the Project up to the maximum amount of state funds committed for the Project in Terms of Agreement, Paragraph 2 of this Agreement. Reimbursements shall be made by State within forty-five (45) days of State's approval of a request for reimbursement from Agency, except that final payment will be withheld until the State's Project Manager has completed final project inspection and project acceptance.

2. State shall provide the following items to Agency's Project Manager no later than 30 days after execution of this Agreement:
 - a. Scoping Notes; and
 - b. Any other project specific information gathered during the scoping and selection process
3. State's Project Manager will arrange for a final project inspection upon notification from Agency of Project completion, to confirm project completeness and fulfillment of Agreement obligations, prior to final payment.
4. If Project includes traffic signal improvements on or along a State Highway, traffic signal timing shall be the responsibility of State, unless there is an agreement that specifically allows Agency to perform that function. Consistent with Agency Obligations Paragraph 2 State shall:
 - a. Ensure its Region Electrical Crew, at Project expense, perform the signal equipment environmental testing and perform the signal field testing and turn on,
 - b. Retain the right of review of the traffic signal timing for signals on state highways, or those which State maintains, and shall reserve the right to request adjustments when needed,
 - c. Notify the local jurisdiction whenever timing changes that affect the operation of local street connections to the state highway are scheduled. All modifications shall follow guidelines set forth in the current Manual on Uniform Traffic Control Devices, and the current ODOT State Traffic Signal Policy and Guidelines,
 - d. Upon completion of the Project, maintain the pavement surrounding the vehicle detector loops installed in the State highway in such a manner as to provide adequate protection for said detector loops and at State's expense,
 - e. Maintain the pavement markings and signing installed on the State highway in accordance with current ODOT standards, and
 - f. Where Agency has an agreement with State to modify signal timing and the Agency modifies timing to add railroad or emergency vehicle preemption, bus priority, or other changes that affect vehicle or pedestrian clearances, or operation of the state highway, Agency shall promptly report such modifications

to State's Region Traffic Engineer. Any such timing modification shall comply with the ADA and Agency Obligations Paragraph 2,

5. State's Project Manager for this Agreement is Mahasti Hastings, Local Agency Liaison, 123 NW Flanders St., Portland, OR 97209, (503)731-8595 or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual consent of both Parties.
2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if State is prohibited from paying for such work from the planned funding source.
3. If State terminates this Agreement for the reasons described in General Provisions 2(a) or (b) above, Agency must reimburse State for all state funds expended. If Agency fails to reimburse State, State may withhold Agency's proportional share of State Highway Fund distribution necessary to reimburse State for costs incurred by such Agency breach.
4. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
5. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to

the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

6. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
7. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
8. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
9. State and Agency are the only Parties to this Agreement and, as such, are the only Parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to third persons unless such third persons are expressly identified by name and specifically described as intended to be beneficiaries of its terms.

10. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
11. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. 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 that Party of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2018-2021 Statewide Transportation Improvement Program (STIP), (Key #18805) that was adopted by the Oregon Transportation Commission on July 20, 2017 (or subsequently by amendment to the STIP).

Signature Page to Follow

Agency/State
Agreement No. 32756

CLACKAMAS COUNTY, by and through
its elected officials

By _____

Date _____

By _____

Date _____

**LEGAL REVIEW APPROVAL (If required
in Agency's process)**

By _____
Agency Counsel

Date _____

Agency Contact:

Joel Howie,
150 Beaver Creek Road
Oregon City, OR 97045
(503)742-4658
JHowie@co.clackamas.or.us

State Contact:

Mahasti Hastings, LAL
123 NW Flanders St.
(503)731-8595
Mahasti.v.hastings@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____
Region 1 Manager

Date _____

By _____

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By Herbert Lovejoy
Assistant Attorney General (If Over
\$150,000)

Date via email dated September 26, 2018

EXHIBIT A – Project Location Map





DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 24, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of an Intergovernmental Agreement between Clackamas County
and the City of Canby related to the
South Ivy Street Sidewalk Improvement Project**

Purpose/Outcomes	Using matching funds from the City of Canby, this agreement allows Clackamas County to proceed with design and construction of sidewalk and bicycle improvements to South Ivy Street between OR99E and Lee Elementary School. The proposed improvements include constructing sidewalks and bike lanes on both sides of the street where needed and other associated improvements.
Dollar Amount and Fiscal Impact	Overall Project Cost Estimate: \$2,188,815 State Funded Local Project Program funds: \$1,751,045 City of Canby match (20%): \$437,762 County additional match (if required):: up to \$406,918
Funding Source	State Funded Local Project Program (SFLP) Funds, City of Canby Funds, and County Road Funds.
Duration	Completion of the Project or ten (10) years following the date of final execution, whichever is sooner.
Previous Board Action	07/13/17: BCC Approval of Supplemental Project Agreement 31172 01/24/19: Pending BCC Approval of Supplemental Project Agreement No. 32756 with Oregon Department of Transportation for the S. Ivy Street (Canby) Project
Strategic Plan Alignment	This project will “Build a strong infrastructure” and “Ensure safe, healthy and secure communities” by constructing sidewalks and bicycle lanes.
Contact Person	Joel Howie, Civil Engineering Supervisor 503-742-4658

BACKGROUND:

This is a project agreement between Clackamas County and the City of Canby to construct improvements along South Ivy Street from OR99E to Lee Elementary School. The project will provide enhanced bicycle and pedestrian connectivity and include constructing bike lanes and sidewalks on both sides of the road where needed, ADA improvements, and installing a signal at the intersection of South Ivy Street and Township Road.

This agreement replaces a previous three-way agreement (Agreement #31172) between the City of Canby, ODOT and the County. The previous agreement included federal funds and matching City of Canby funds, and this new agreement transfers the jurisdiction of South Ivy Street to the City and confirms the City of Canby’s commitment of funds to match State Funded Local Project Program (SFLP) Funds. The SFLP funds will be matched by City of Canby and County Road Funds, if required. A separate Staff Report requesting approval of an Intergovernmental Agreement with the Oregon Department of Transportation for this project is placed on the same BCC Consent Agenda as this IGA.

This agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approve the attached Intergovernmental Agreement between Clackamas County and the City of Canby related to the South Ivy Street Sidewalk Improvement Project as listed in the agreement.

Respectfully submitted,

Joel Howie,
Civil Engineering Supervisor

RESOLUTION NO. 1308

**A RESOLUTION REQUESTING AN INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY AND THE CITY OF CANBY RELATED TO THE
SOUTH IVY STREET SIDEWALK IMPROVEMENT PROJECT.**

WHEREAS, authority is conferred upon local governments under ORS 190.010 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; and

WHEREAS, S. Ivy St. is a County Road, as defined in ORS 368, which is currently maintained by the County but within the corporate limits of the City; and

WHEREAS, County and City desire to make the following improvements to S. Ivy St. between OR-99E and Lee Elementary School (hereafter called "Ivy St. Improvements" or the "Project"): (1) construction of sidewalks and bike lanes on both sides of the street where needed, (2) construction of ADA improvements, (3) installation of a signal at the intersection of S. Ivy Street and Township Road, and (4) addressing a residential driveway within the intersection of S. Ivy Street and Township Road. The Project location and approximate limits are shown the map marked "Exhibit A," attached hereto and by this reference made a part hereof; and

WHEREAS, the County has entered into an agreement with the State of Oregon through its Department of Transportation (the "ODOT") to exchange unspent federal funds previously allocated to the Project for state funds, in order to fund the Project using state funding. ODOT has determined that Agency is eligible for state funds for the work to be performed under this Agreement through the State Funded Local Project Program; and

WHEREAS, the total Project cost for the work to be performed under this Agreement is estimated at \$2,188,815, which is subject to change. Prior to exchanging funds, the federal share of the total Project cost is \$1,751,053. The City has committed \$437,762 as a matching amount, to be applied to the Project. In the event, the total Project cost exceeds the estimated total, County has committed to donating staff time to the project for managing the design and right-of-way phases of the project and for the construction management and inspection phase of the project (up to \$250,000 in staff time). In the event the total cost exceeds the estimated total and County-donated staff time, the County shall provide up to \$156,918 in funding; and

WHEREAS, City desires that County perform the Project on its behalf, and agrees that the County should be entitled to payment for completion of that agreed upon work;

WHEREAS, the County desires to perform the work on behalf of the City.

NOW THEREFORE, BE IT RESOLVED by the City of Canby City Council, as follows:

- (1) The City agrees to enter into agreement with Clackamas County in pursuant to ORS 190.010 for purposes of the terms and conditions as outlined in the **INTERGOVERNMENTAL AGREEMENT BETWEEN CLACKAMAS COUNTY AND THE CITY OF CANBY RELATED TO THE SOUTH IVY STREET SIDEWALK IMPROVEMENT PROJECT**, Exhibit "A".

This resolution will take effect on January 16, 2019.

ADOPTED this 16th day of January 2019 by the Canby City Council.



Brian Hodson
Mayor

ATTEST:



Kimberly Scheafer, MMC
City Recorder

**INTERGOVERNMENTAL AGREEMENT BETWEEN CLACKAMAS COUNTY
AND THE CITY OF CANBY RELATED TO THE SOUTH IVY STREET
SIDEWALK IMPROVEMENT PROJECT**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County ("County"), a corporate body politic, and the City of Canby ("City"), an Oregon municipal corporation, pursuant to ORS Chapter 190 (Cooperation of Governmental Units), collectively referred to as the "Parties" and each a "Party."

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 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;

WHEREAS, S. Ivy St. is a County Road, as defined in ORS 368, which is currently maintained by the County but within the corporate limits of the City;

WHEREAS, County and City desire to make the following improvements to S. Ivy St. between OR-99E and Lee Elementary School (hereafter called "Ivy St. Improvements" or the "Project"): (1) construction of sidewalks and bike lanes on both sides of the street where needed, (2) construction of ADA improvements, (3) installation of a signal at the intersection of S. Ivy Street and Township Road, and (4) addressing a residential driveway within the intersection of S. Ivy Street and Township Road. The Project location and approximate limits are shown the map marked "Exhibit A," attached hereto and by this reference made a part hereof;

WHEREAS, the County has entered into an agreement with the State of Oregon through its Department of Transportation (the "ODOT") to exchange unspent federal funds previously allocated to the Project for state funds, in order to fund the Project using state funding. ODOT has determined that Agency is eligible for state funds for the work to be performed under this Agreement through the State Funded Local Project Program.

WHEREAS, the total Project cost for the work to be performed under this Agreement is estimated at \$2,188,815, which is subject to change. Prior to exchanging funds, the federal share of the total Project cost is \$1,751,053. The City has committed \$437,762 as a matching amount, to be applied to the Project. In the event, the total Project cost exceeds the estimated total, County has committed to donating staff time to the project for managing the design and right-of-way phases of the project and for the construction management and inspection phase of the project (up to \$250,000 in staff time). In the event the total cost exceeds the estimated total and County-donated staff time, the County shall provide up to \$156,918 in funding.

WHEREAS, City desires that County perform the Project on its behalf, and agrees that the County should be entitled to payment for completion of that agreed upon work;

WHEREAS, the County desires to perform the work on behalf of the City;

AGREEMENT

NOW, THEREFORE, 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:

1. **Term.** This Agreement shall be effective upon execution, and shall continue until final payment is made under this Agreement, or ten (10) calendar years following the date all required signatures are obtained on this Agreement, whichever is sooner.
2. **Rights and Obligations of the County.**
 - A. The County shall administer the Project on behalf of City and shall perform the work associated with the Ivy St. Improvements, all within the Project limits described in Exhibit "A." To complete the Project, the County agrees to the following:
 1. The County will facilitate and coordinate design work, permitting and land use entitlements. Additionally, the County will develop and approve any design exceptions for the project including any ADA design exceptions.
 2. The County will develop bid specifications and advertise the bid for construction.
 3. The County will acquire the right of way necessary to complete the Project.
 4. The County will enter into a contract for construction and the County will provide construction management services.
 - B. Project Invoicing and Payment.
 1. The County shall submit invoices to ODOT for reimbursement of costs billed to the Project and paid by the County, including, but not limited to costs associated with design, right of way acquisition and construction. The County shall submit invoices to ODOT within six (6) months from the date that costs are incurred.
 2. In the event, the total Project cost exceeds the estimated total, County has committed to donating staff time to the project for managing the design and right-of-way phases of the project and for the construction management and inspection phase of the project (up to \$250,000 in staff time). In the event the total cost exceeds the estimated total and County-donated staff time, the County shall provide up to \$156,918 in funding. In the event the Project cost exceeds the estimated total and exceeds the County's additional contribution of \$250,000 in staff time and \$156,918 in funding, the County shall submit invoices to the City for reimbursement of costs billed to the Project which are not reimbursed by ODOT, including, but not limited to costs associated with design, right of way acquisition and construction. The County shall submit invoices to the City within six (6) months from the date that costs are incurred.
 3. Project overruns and non-participating costs shall be the responsibility of the City. "Project Overruns" means the final cost estimate at contract award exceeds the estimated total Project cost estimate in this Agreement in addition to the County's additional contribution of \$250,000 in staff time and \$156,918 in funding, or the final actual project costs exceed the final cost estimate at contract award in addition to the County's additional contribution of \$250,000 in staff time and \$156,918 in funding.
 - C. Upon substantial completion of the Project, the County will relinquish jurisdiction of S. Ivy St. within the entire City limits to the City.
 - D. Clackamas County is self-insured for workers' compensation, and general, auto and professional liability, in accordance with the provisions of ORS 30.272 (Tort Claims Act) and ORS 656.403 (Workers' Compensation). The County maintains an insurance fund from which to pay all costs and expenses relating to claims for which it is self-insured. The County's exposure for general, auto and professional liability is limited by ORS 30.272.

3. Rights and Obligations of the City.

A. The City hereby authorizes the County to administer the Project on behalf of the CITY and will provide necessary assistance to the COUNTY in order to complete the Project. CITY will provide assistance in the following ways;

1. CITY will coordinate with the COUNTY in the design, bidding and construction of the projects and when requested, CITY will provide timely feedback regarding design, construction bid advertisements, design exceptions, permitting and construction issues. Timely feedback is defined as any reasonable deadline specified by the COUNTY in carrying out the above mentioned tasks.
2. CITY will respond in a timely manner to COUNTY's requests to execute applications or documents and to provide information or approval to the COUNTY or consultants for purposes of fulfilling the purpose of this Agreement.
3. The CITY shall be primarily responsible for facilitating public meetings associated with the Project. COUNTY shall supply the CITY up to four 22" by 34" plan sheets for use at the public meetings. The COUNTY Project Manager shall attend up to three public meetings associated with the Project at the request of the CITY.

B. Project Payment

1. CITY shall pay to COUNTY amounts invoiced to the City for reimbursement of costs billed to the Project which are not reimbursed by ODOT, including, but not limited to costs associated with design, right of way acquisition and construction. Payment shall be made to the COUNTY within forty-five (45) days of receipt of the invoice by the CITY.

3. The CITY guarantees the availability of CITY funding in an amount required to fully fund CITY's share of the Project.

4. CITY shall submit payment to the COUNTY at the following address:

Clackamas County Engineering
Attention: Joel Howie
150 Beaver Creek Road
Oregon City, OR 97045

C. Transfer and Maintenance

1. Upon substantial completion of the Project, the CITY shall participate in a jurisdictional transfer of S. Ivy St. from the COUNTY.

2. As a condition of jurisdiction transfer, the County agrees to pay to the City a sum of money equal to the cost of a two-inch asphaltic overlay from the start of SE 16th Avenue to the end of Tax Lot 41E04D02000, as shown in Exhibit B, over the width of the then-existing pavement; however, if the width of pavement is less than twenty feet, the sum shall be calculated for an overlay twenty feet wide. The cost of asphaltic concrete overlay to be used in the calculation shall be the average of the most current asphaltic concrete overlay projects performed by each of the City and County.

3. Upon transfer of jurisdiction of S. Ivy St. from the COUNTY, the City shall be responsible for ongoing maintenance and shall maintain S. Ivy St. in a manner that is similar to other CITY roads with similar features, function, and characteristics. The City shall, at its own expense, maintain, operate, and provide power as needed upon Project completion at a

minimum level that is consistent with normal depreciation and/or service demand and throughout the useful life of the Project. County and City agree that the useful life of this Project is defined as 20 years.

3. The maintenance and power obligation shall survive any termination of this Agreement.

4. Work Plan and Project Schedule.

- A. It is the desire of both Parties to complete the Project as soon as practicable, if possible within five years of execution of this agreement and the County will diligently pursue completion of the Project prior to that date. The City acknowledges that it may not be possible to complete any or all of the Project within the desired time frame due to circumstances beyond the control of the Agency. Design and construction timing is also highly dependent on the receipt of necessary information and approvals requested by the County. All Parties will in good faith attempt to meet Project deadlines but recognize timelines may need to be adjusted because of unforeseen circumstances. The County will provide prompt notice to the City of any anticipated delays in the schedule.
- B. In the event any part of the Project is unable to be completed within 7 years of execution of this agreement, the Parties may mutually agree in writing to adjust the Project timeline and this Agreement, or modify or terminate the Project as necessary. The City agrees to not unreasonably withhold consent to extensions in the schedule. In the event of alterations to the Project, other terms of this Agreement shall remain in effect except for mutually agreed upon changes. In no event shall the City claim any damages, monetary or otherwise, resulting from the County's failure to complete the Project within 7 years of execution of this agreement.

5. Termination.

- A. The County and the City, by mutual written agreement, may terminate this Agreement at any time.
- B. Either the County or the City 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 City shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. Nothing herein shall prevent the Parties from meeting to mutually discuss the Project. Each Party shall use best efforts to coordinate with the other to minimize conflicts.

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

6. Indemnification.

A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute and Article 11 Section 10 of the Oregon Constitution, the County agrees to indemnify, save harmless and defend the City, 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 (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.

B. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute and Article 11 Section 10 of the Oregon Constitution, the City 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 (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the City has a right to control.

7. Party Contacts

A. Joel Howie or his designee will act as liaison for the County for the Project.

Contact Information:

Clackamas County- Department of Transportation and Development
Attn: Joel Howie
150 Beaver Creek Road
Oregon City, OR 97045
(503) 742-4658 or jhowie@clackamas.us

B. City Administrator or his or her designee will act as liaison for the City for the Project.

Contact Information:

City of Canby
Attn: Rick Robinson, City Administrator
PO Box 930
Canby, OR 97103

C. 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.

8. General Provisions

A. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

- B. **Applicable Law.** The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.
- 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. **Record and Fiscal Control System.** All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this Agreement; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved
- E. **Access to Records.** The Parties acknowledge and agree that each Party, the federal government, and their duly authorized representatives shall have access to each Party's books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.
- F. **Debt Limitation.** This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law 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.** Neither Party intends that this Agreement benefit, or create any right or cause of action in, or on behalf of, any person or entity other than the County or the City.
- L. **No Assignment.** No Party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of the other Party, which consent may be withheld for any reason. The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties.
- M. **Counterparts.** This Agreement may be executed in any number of counterparts (electronic, facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
- N. **Authority.** Each Party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Agreement.
- 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.

[Signatures on Following Page]

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

Clackamas County

City of Canby

Chair, Board of County Commissioners



Richard Robinson
City Administrator

Date

1/16/2019

Date

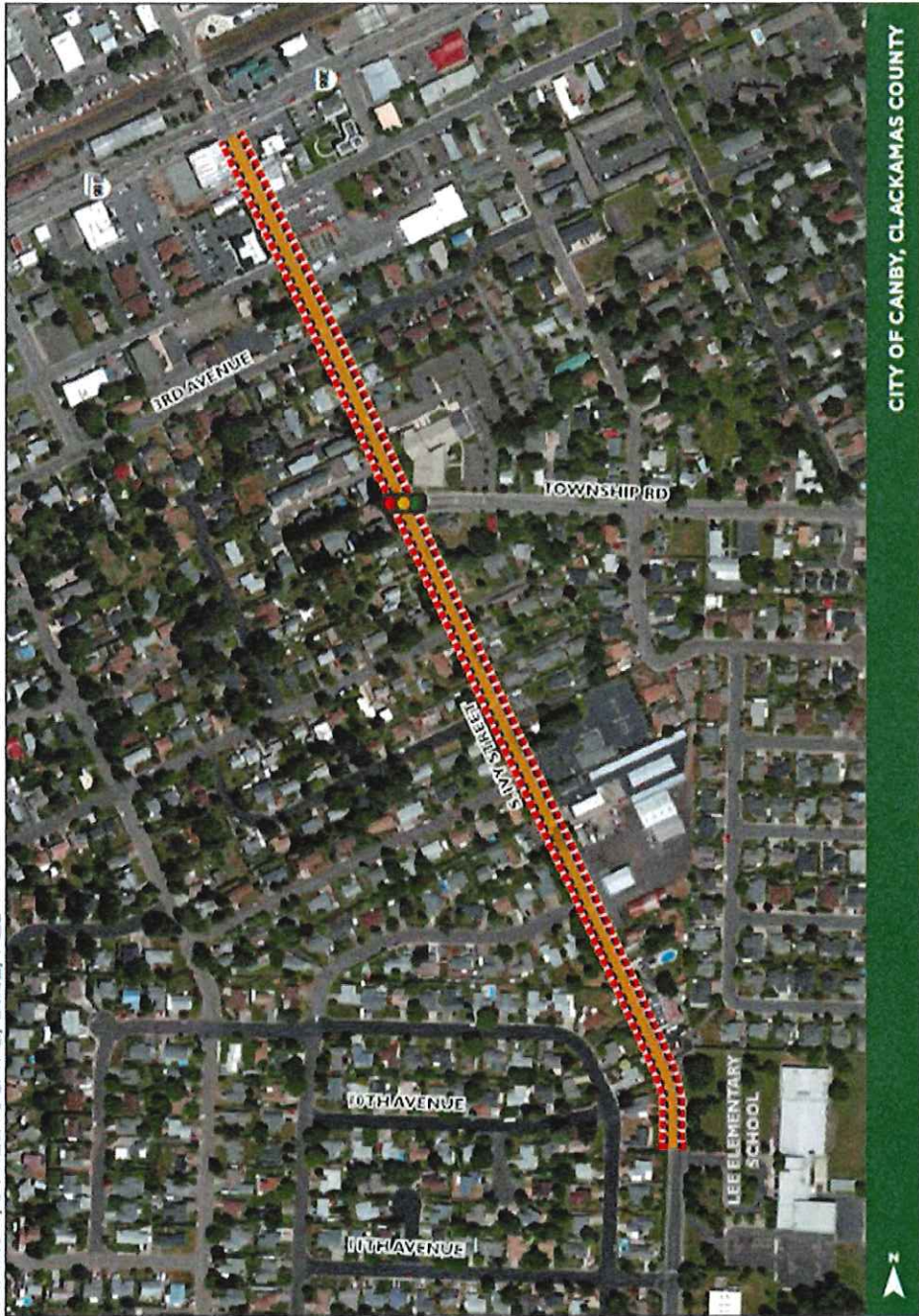
Exhibit A – Project Location Map



2016-2018 STIP

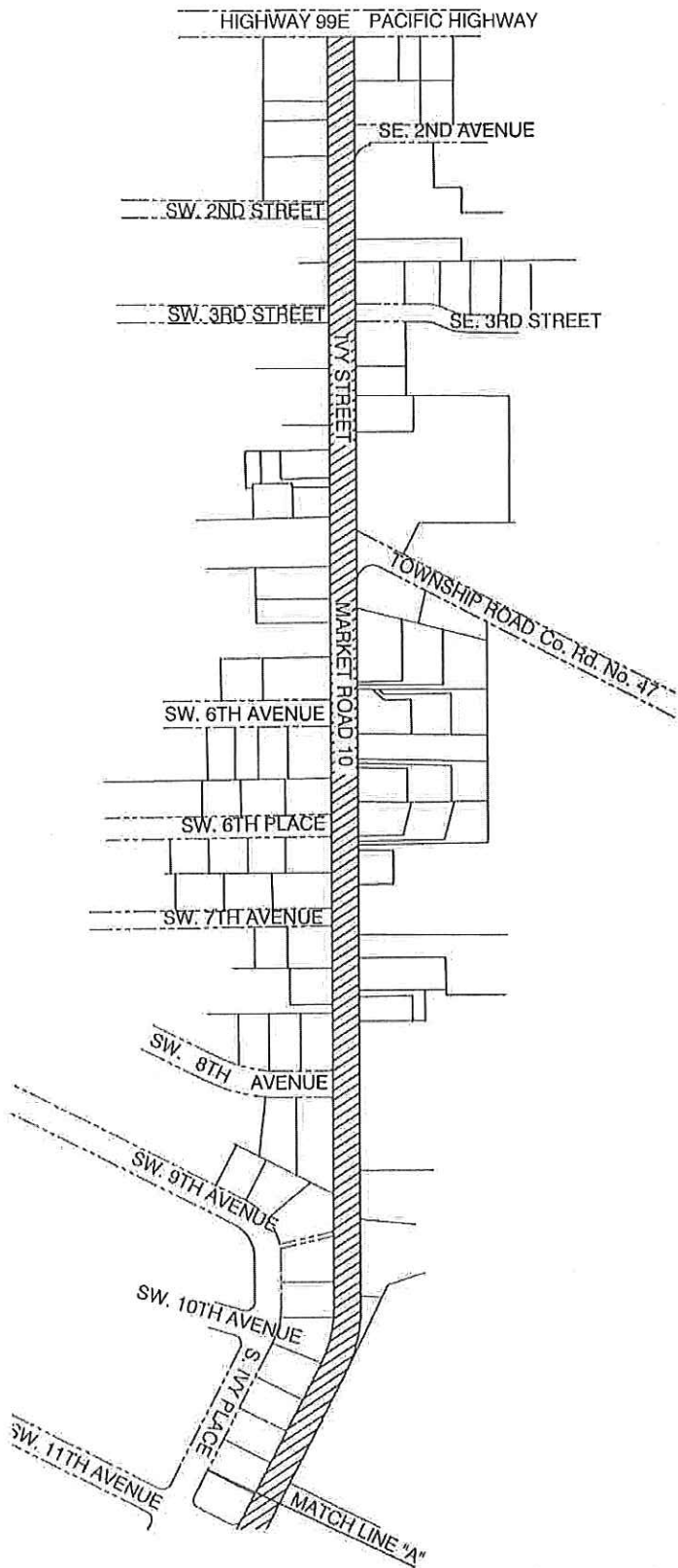
S. IVY STREET PEDESTRIAN & INTERSECTION IMPROVEMENTS

TRANSIT/STREETSCAPE/BIKE/PED



CITY OF CANBY, CLACKAMAS COUNTY

EXHIBIT "B"



LEGEND
 ▨ TRANSFERRED STREET
 --- STREET R-O-W LINES
 ——— TAX LOT LINES
 IVY STREET LENGTH 6,650'±
 IVY STREET AREA 441,260 Sq. Ft.±


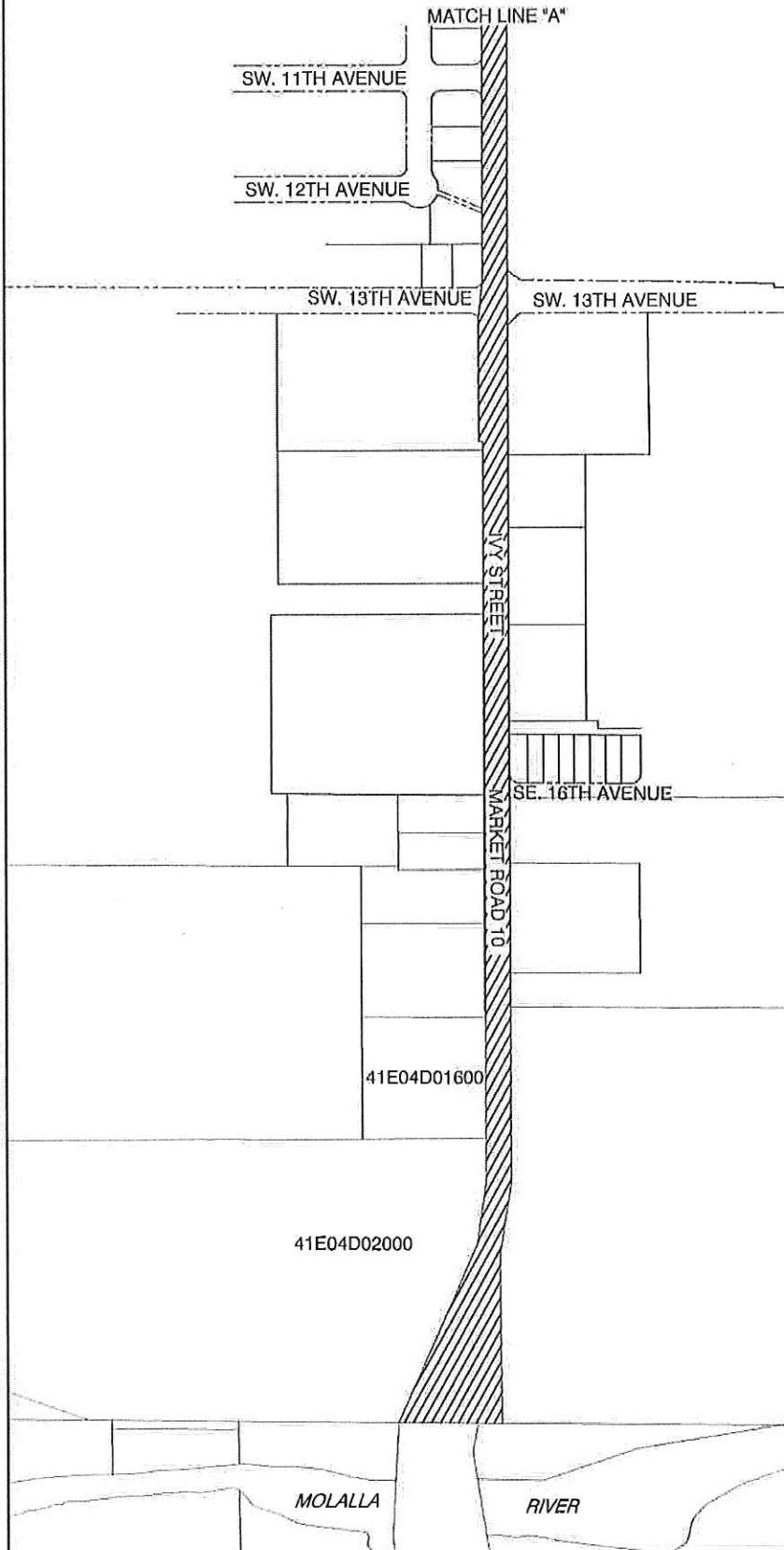
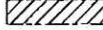


DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT 150 BEAVERCREEK ROAD OREGON CITY, OR 97045	 CLACKAMAS COUNTY	CUTSHALL/BAYS 08/16/2018 JURISDICTIONAL TRANSFER OF IVY STREET - MARKET ROAD 10	SHEET 1 OF 2
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EXHIBIT "B"



LEGEND

-  TRANSFERRED STREET
-  STREET R-O-W LINES
-  TAX LOT LINES

IVY STREET LENGTH 6,650'±
 IVY STREET AREA 441,260 Sq. Ft.±

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT 150 BEAVERCREEK ROAD OREGON CITY, OR 97045	 CLACKAMAS COUNTY	CUTSHALL/BAYS 08/16/2018 JURISDICTIONAL TRANSFER OF IVY STREET - MARKET ROAD 10	SHEET 2 OF 2
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EBEN POLK, MANAGER
SUSTAINABILITY & SOLID WASTE

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

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

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of Contract with Bell & Associates Inc. to provide
Solid Waste Annual Financial Review Services**

Purpose/ Outcomes	This contract will provide solid waste annual financial report reviews of the County's multiple franchised solid waste collectors.
Dollar Amount and Fiscal Impact	The contract value is \$270,000.00
Funding Source	217-2742-43100 Franchise Fees: Solid Waste Collection and Transfer
Duration	Contract signing through January 31, 2024
Previous Board Action	N/A
Strategic Plan Alignment	<ul style="list-style-type: none">Build public trust through good government and ensure safe, healthy and secure communities Foster accountability among the public of Clackamas County
Contact Person	Rick Winterhalter- 503-742-4466

BACKGROUND:

Through Sustainability and Solid Waste ("SSW") of the Department of Transportation and Development the County implements all administrative and program requirements for Solid Waste management in the unincorporated portions of the County.

Clackamas County would like to contract with Bell & Associates, Inc., as professional solid waste annual report review experts. The purpose of this contract is for continued review and analysis of the franchised solid waste collectors in Clackamas County.

Procurement Process:

This project was advertised in accordance with ORS and LCRB Rules on July 19, 2018. Proposals were closed on October 10, 2018 at 2:00PM. The County received 2 proposals: Bell & Associates, Merina & Company. Final evaluations determined that Bell & Associates, Inc., was the highest ranking proposer and could meet the needs of the County. The total contract amount is not to exceed \$270,000.00.

County Counsel has reviewed this contract.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners, acting as the governing body of the County, approve and execute the Contract between Clackamas County and Bell & Associates, Inc., for the Department of Transportation and Development.

Respectfully submitted,

Dan Johnson, Director

Placed on the Agenda of _____ by the Procurement Division



CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal/Professional Services Contract (this "Contract") is entered into between Bell & Associates, Inc. ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of Transportation and Development.

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 January 31, 2024 with the option of one (1) year renewal thereafter.

2. Scope of Work. Contractor will provide the following personal/professional services: to provide solid waste annual financial review services. ("Work"), further described in Exhibit A.

3. Consideration. The County agrees to pay Contractor, from available and authorized funds, for an annual contract value not to exceed Forty Five Thousand dollars (\$45,000.00) and for total contract value sum including any optional renewal not to exceed Two Hundred Seventy Thousand dollars (\$270,000.00), for accomplishing the Work required by this Contract.

4. Travel and Other Expense. Authorized: [] Yes [X] 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: http://www.clackamas.us/bids/terms.html.

5. 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, Exhibits A, B, C, D, E and F.

6. Contractor Data.

Bell & Associates, Inc.

Address: 1628 NW 33rd Way, Camas, WA 98607

Contractor Contract Administrator: Christopher J Bell, CPA

Phone No.: 360-210-4344

Email: chris@bellassociatesinc.com

MWESB Certification: [] DBE # [] MBE # [] WBE # [] ESB #

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 could subject Contractor to backup withholding.

ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and 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. Such books and records shall be maintained by Contractor for a minimum of three (3) 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 FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.
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 federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.
5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon 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.

- 7. HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- 8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** 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.
- 9. 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; (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; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Exhibit C)
- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit B**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), 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. 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.
- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us, or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other

addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

- 13. 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.
- 14. 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) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. 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, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. 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.
- 17. 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. 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, Paragraphs 1, 8, 13, 15, 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.
- 18. 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.
- 19. TAX COMPLIANCE CERTIFICATION.** Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor’s warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County

to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

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

20. TERMINATIONS. This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the Work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

21. REMEDIES. (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated

pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, 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.

- 22. 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.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. 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.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, 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.
- 26. 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.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.
- (C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- (D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor

collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

28. CONFIDENTIALITY. Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11)), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor 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 purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar

EXHIBIT A
PERSONAL/PROFESSIONAL SERVICES CONTRACT

SCOPE OF WORK

Contractor shall complete work as outlined in the Request for Proposal #2018-87, issued September 13, 2018, hereby included as **Exhibit D**, and the Vendor's response, hereby included as **Exhibit E**.

The County Contract administrator for this Contract is: Rick Winterhalter.

CONSIDERATION

- a. Consideration Rates – Time and Material as listed within **Exhibit F**.
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462 and shall not exceed the total annual sum of \$45,000.00 and shall not exceed the total maximum sum including any optional renewal of \$270,000.00 Invoices shall be submitted to: Rick Winterhalter at 150 Beavercreek Rd, Oregon City, Oregon 97045 or via email at rickw@co.clackamas.or.us
- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made 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 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. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. 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 billings shall also include the total amount billed to date by Contractor prior to the current invoice.

**EXHIBIT B
INSURANCE**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

1. Required by County of Contractor with one or more workers, as defined by ORS 656.027.

Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126.

2. Required by County Not required by County

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

3. Required by County Not required by County

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract.

4. Required by County Not required by County

Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

5. Certificates of Insurance. Contractor shall furnish evidence of the insurance required in this Contract. The insurance for general liability and automobile liability must include an endorsement naming the County, its officers, elected officials, agents, and employees as additional insureds with respect to the Work under this Contract. Insuring companies or entities are subject to County acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

6. Notice of cancellation or change. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

EXHIBIT C
CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR

(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result; **AND**
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- _____ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- _____ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- _____ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- _____ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- _____ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature _____ Date _____

EXHIBIT D
RFP # 2018-87
Solid Waste Annual Financial Review Services
Issued on September 13, 2018

EXHIBIT E
VENDOR'S RESPONSE

**EXHIBIT F
FEE SCHEDULE**



Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

January 24, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for Service Level Agreement Amendment #1 between
Clackamas Broadband eXchange and the City of Wilsonville

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for approval for a Service Level Agreement (SLA) amendment #1 with the City of Wilsonville for exchanging dark fiber connections.
Dollar Amount and Fiscal Impact	No money will be exchanged between CBX and the City of Wilsonville.
Funding Source	The funding source for the expansion of the CBX fiber network will be contributed by the West Linn-Wilsonville SD for redundant paths to all of their school locations.
Duration	Effective upon signature by the board the SLA amendment #1 is effective until 02/05/2025.
Previous Board Action	Board previously approved CBX to exchange fiber connections with the City of Wilsonville in 2015.
Strategic Plan Alignment	1. Build a strong infrastructure. 2. Build public trust through good government.
Contact Person	Dave Devore (503)723-4996

BACKGROUND:

CBX negotiated an exchange of fiber connection with the City of Wilsonville when applying for the city franchise agreement in 2015. This amendment will increase the exchanged fiber connection; 2 (total of 5) for CBX and 1 (total of 6) for the City of Wilsonville. The new fiber connections will be utilized to provide the West Linn-Wilsonville School District redundant paths to all of their school locations.

RECOMMENDATION:

Staff respectfully recommends approval to enter into this new fiber agreement with PGE. Staff further recommends the Board delegate authority to the Technology Services Director to sign agreements necessary in the performance of this agreement.

This Service Level Agreement has been reviewed and approved by County Counsel.

Sincerely,

Dave Cummings
CIO Technology Services

AMENDMENT #1

**TO THE CLACKAMAS COUNTY/CITY OF WILSONVILLE FIBER OPTIC
INTERGOVERNMENTAL AGREEMENT ON SHARING DATA NETWORK**

This Amendment #1 is entered into by and between the City of Wilsonville (“City”) and the Clackamas County (“County”) and it shall become part of the Fiber Optic Service Intergovernmental Agreement entered into by and between the parties on February 5, 2015 (“Agreement”).

The Purpose of the Amendment #1 is to make several changes to Section II, Shared Resources, of the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed upon that Section II is hereby amended as follows:

1. Section II, Subsection A (3) is hereby deleted and replaced with the following:

A.

(3) Provide the County with five (5) pairs of fiber on the City’s fiber network, at no charge, for the following institutions: Providence, Clackamas Community College, and the remainder to an as yet to be identified public entity. Clackamas County and not the City will then be entitled to charge these entities for services provided.

2. Section II, Subsection B (1), is hereby deleted and replaced with the following:

B.

(1) In consideration of the City’s waiver of franchise fees and provision of resources, as set forth above, the County will provide the City with six (6) pairs of fiber on the CBX fiber network, at no charge. The six public sites will be identified by the City as the need arises. Once identified, the City and not Clackamas County will then be entitled to charge these entities for services provided.

Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect. By signature below, the parties agree to this Amendment #1, effective upon the date of the last signature below.

City of Wilsonville



Authorized Signature

Bryan Cosgrove / City Manager

Name / Title (Printed)

December 13, 2018

Date

Clackamas County

Authorized Signature

Name/Title (Printed)

Date

January 24, 2019

Board of County Commissioners
acting as the Board of Health
Clackamas County

Members of the Board:

Approval of a Resolution Supporting a
Clackamas Countywide Tobacco Retail License

Purpose/Outcomes	The purpose is to (1) gain approval of a resolution supporting a countywide tobacco retail license (2) have the Board of Health direct County Counsel to develop a tobacco retail license ordinance and (3) Public Health Division to form a Rules Advisory Committee following ordinance development.
Fiscal Impact	n/a
Funding Source	Strategies for Policy and Environmental Change, Tobacco-Free (SPArC Tobacco-Free)
Duration	NA
Previous Board Action	The Board of County Commissioners, acting as the Board of Health, requested that County Counsel develop a draft resolution during the January 8, 2019, Policy Session.
Strategic Plan Alignment	Ensure safe, healthy and secure communities.
Contact Person	(Primary) Dawn Emerick, DEmerick@clackamas.us , 503.505.0214 (Secondary) Julie Aalbers, Julieaal@co.clackamas.or.us , 971.284.1976
Contract No.	NA

BACKGROUND:

The Public Health Division of the Health, Housing & Human Services Department request the approval of a Resolution supporting a Clackamas Countywide Tobacco Retail License. The major activities to date have included three policy sessions (January 30, 2018, October 2, 2018, and January 8, 2019) and robust stakeholder engagement. See the attached policy session presentations and stakeholder engagement documents for specific details.

County Counsel and Health, Housing & Human Services staff are requesting that the Board of Health approve the proposed resolution. The resolution outlines the County’s support for a countywide tobacco retail license, harms associated with tobacco and nicotine use, and overall effectiveness of a tobacco retail license in enforcing existing tobacco-related laws and reducing youth access to tobacco and other nicotine products. Staff also request that the Board of Health direct County Counsel to develop an ordinance and direct the Public Health Division to form a Rules Advisory Committee.

RECOMMENDATION:

Healthy Families. Strong Communities.

Staff recommends the Board, acting as the Clackamas County Board of Health, approve the attached resolution and direct staff to move forward with the following 3 recommendations: (1) gain approval of a resolution supporting a countywide tobacco retail license (2) have the Board of Health direct County Counsel to develop a tobacco retail license ordinance and 3) Staff also requests the Clackamas County Board of Health to form a Rules Advisory Committee following ordinance development.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of the Clackamas
County Board of County
Commissioners, Acting As the Board
of Health and the Local Public Health
Authority Regarding Tobacco and
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Whereas, ORS 431.150, ORS 431.413, and ORS 431.415 authorize the Board of Health and the Local Public Health Authority to conduct any activity necessary to protect the public health and safety; and

Whereas, Clackamas County ORS 431.444(1)(a) identifies the prevention of injury and disease and the promotion of health through the prevention and control of tobacco use;

The Board of Health for Clackamas County finds:

- a. The Clackamas County Board of County Commissioners constitutes the Board of Health for Clackamas County. The Board of Health is the policy making body for Clackamas County Public Health and assists Public Health in adopting rules necessary to carry out its policies. ORS 431.150 and ORS 431.415;
- b. Clackamas County also acts as the Local Public Health Authority, through the Clackamas County Public Health Department. ORS 431.375(2). A core responsibility of the Local Public Health Authority is to conduct activities necessary for the preservation of health or prevention of disease in the area under its jurisdiction. ORS 431.413 and ORS 413.415;
- c. State law prohibits the sale or furnishing of tobacco products and inhalant delivery systems (which include e-cigarettes and vaping devices) to underage persons, as well as the purchase, receipt, or possession of tobacco products and inhalant delivery systems by minors. ORS 167.755 (sales to underage persons), ORS 167.785 (possession by underage persons);
- d. Federal law requires that retailers check the identification of everyone under the age of 27 who attempts to purchase a tobacco product. 21 CFR § 1140.14;

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- e. Tobacco use is the most preventable cause of illness and death in Oregon.¹ The top three causes of death in Clackamas County are tobacco-related – cardiovascular disease, cancer, and chronic lower respiratory diseases (emphysema and chronic bronchitis).²
- The use of tobacco products or inhalant delivery systems by youth and young adults causes serious and potentially deadly health effects.
 - Most addiction to tobacco or nicotine starts in adolescence.³
 - Adolescents who start smoking before their 19th birthday have on average a 20% higher risk of dying from a smoking-related illness.⁴
 - Nicotine exposure during adolescence can harm the developing brain, which continues to develop until about age 25.⁵
 - Nicotine exposure during adolescence can impact learning and memory.^{6,7}
 - Nicotine primes the brain for addition to other substances.⁸

¹ Oregon Vital Statistics Annual Reports, Volume 2: Chapter 6. Mortality. Table 6-20. Accessed at <http://www.oregon.gov/oha/ph/BirthDeathCertificates/VitalStatistics/annualreports/Volume2/Pages/index.aspx>

² Clackamas County Community Health Assessment 2017. Accessed at <https://dochub.clackamas.us/documents/drupal/aeb4ac5f-71a0-42cb-be78-65776a97be33>

³ Oregon Tobacco Facts, 2018. Oregon Health Authority Public Health Division, Health Promotion and Chronic Disease Prevention Section. Accessed at www.healthoregon.org/tobaccoretailsales

⁴ Choi, S.H., & Stommel, M. (2017). Impact of age at smoking initiation on smoking-related morbidity and all-cause mortality. *American Journal of Preventive Medicine*, 53, 33-41.

⁵ Office of the Surgeon General. *E-cigarette Use among Youth and Young Adults: A Report of the Surgeon General*. Washington, DC: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention; 2016. Accessed at https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf Attached.

⁶ Office of the Surgeon General. *The Health Consequences of Smoking-50 Years of Progress: A Report of the Surgeon General*. Atlanta, GA: US Department of Health and Human Services, Centers for Disease Control and Prevention (US), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2014. Accessed at <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>

⁷ Office of the Surgeon General. *E-cigarette Use among Youth and Young Adults: A Report of the Surgeon General*. Washington, DC: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention; 2016. Accessed at https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf

⁸ Kandal DB, Kandal ER. A Molecular Basis for Nicotine as a Gateway Drug. *New England Journal of Medicine*. 2014. Accessed at <https://www.nejm.org/doi/full/10.1056/nejmsa1405092>

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- Most e-cigarettes contain nicotine, which is the addictive drug in regular cigarettes, cigars, and other tobacco products.⁹
- Attachment A shows the results of the Oregon Health Authority’s most recent inspection results for Clackamas County.
 - According to the 2018 Student Wellness Survey, 69.4% of Clackamas County 11th graders said that it would be “sort of easy” or “very easy” to get e-cigarettes. One of the strongest predictors of smoking initiation among youth is the perceived ease of access.
 - Based on a 2018 assessment of 232 tobacco retailers and vape shops in Clackamas County, 91 percent sold little individual cigars, 72 percent sold e-cigarettes. Nearly all of which (98%) were flavors attractive to youth.
- Attachments B-L show the location of tobacco retailers in proximity to schools and density of youth under 21 years.
 - Studies show that density of tobacco retailers and proximity of retailers to schools impacts youth tobacco use rates.^{10,11}
 - Increased tobacco retailer density is associated with experimental smoking.
 - Prevalence of smoking is higher at schools with five or more retailers within the area.

⁹ Office of the Surgeon General. *E-cigarette Use among Youth and Young Adults: A Report of the Surgeon General*. Washington, DC: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention; 2016. Accessed at https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf

¹⁰ Henriksen, L., Feighery, E. C., Schleicher, N. C., Cowling, D. W., Kline, R. S., & Fortmann, S. P. (2008). Is adolescent smoking related to the density and proximity of tobacco outlets and retail cigarette advertising near schools? *Preventative Medicine*, 47, 210-214. Accessed at <https://www.ncbi.nlm.nih.gov/pubmed/18544462>

¹¹ McCarthy, W. J., Mistry, R., Lu, Y., Patel, M., Zheng, H., & Dietsch, B. (2009). Density of Tobacco Retailers Near Schools: Effects on Tobacco Use Among Students. *American Journal of Public Health*, 99, 2006-2013. Accessed at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2759807/>

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF CLACKAMAS COUNTY, STATE OF OREGON

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- E-cigarette use among 11th grade children in Oregon increased **three-fold** from 2013 to 2105.¹² Flavored tobacco products are more popular among Oregon youth (65%) and young adults (21%) compared to older adults. *Id.*
- The Surgeon General has declared youth e-cigarette use an epidemic.¹³ In 2018, more than 3.6 million U.S. youth, including 1 in 5 high school students and 1 in 20 middle school students, used e-cigarettes.¹⁴
- A survey released by the Centers for Disease Control & Prevention found youth who tried e-cigarettes were nearly **twice as likely** to try a conventional cigarette.¹⁵
- Adolescents who use e-cigarettes are not only more likely to smoke cigarettes but are also likely to increase their use of both products over time¹⁶.
- Use of e-cigarettes is not harmless. Testing of e-cigarettes has identified chemicals known to cause cancer and birth defects, as well as lung and cardiovascular disease, in first and secondhand e-cigarette vapor.¹⁷

¹² Oregon Healthy Teens (OHT) Survey, 2015. Oregon Health Authority. Chronic Disease Data. Youth Data. Tobacco use and related topics. Accessed at

https://public.health.oregon.gov/DiseasesConditions/ChronicDisease/DataReports/Documents/datatables/ORAnnualOHT_Tobacco.pdf

¹³ <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>

<https://www.cnn.com/2018/12/18/us-surgeon-general-adams-declares-youth-e-cigarette-use-an-epidemic.html>;
<https://www.cardiovascularbusiness.com/topics/healthcare-economics/us-sg-declares-teen-vaping-national-epidemic>
<https://abcnews.go.com/Politics/surgeon-general-warns-cigarettes-vaping/story?id=59873481>

¹⁴ Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. Notes from the Field: Increase in use of electronic cigarettes and any tobacco product among middle and high school students – United States, 2011-2018. *MMWR Morbidity & Mortality Weekly Report* 2018; 67(45):1276-1277.

¹⁵ Bunnell RE, Agaku IT, Arrazola R, Apelberg BJ, Caraballo RS, Corey CG, Coleman B, Dube SR, King BA. Intentions to smoke cigarettes among never-smoking U.S. middle and high school electronic cigarette users. National Youth Tobacco Survey, 2011-2013. *Nicotine and Tobacco Research*. Accessed at <https://www.ncbi.nlm.nih.gov/pubmed/25143298>

¹⁶ Dunbar MS, Davis JP, Rodriguez A, Tucker JS, Seelam R, D'Amico EJ. Disentangling Within- and Between-Person Effects of Shared Risk Factors on E-cigarette and Cigarette Use Trajectories From Late Adolescence to Young Adulthood. Accessed at https://www.rand.org/pubs/external_publications/EP67710.html.

¹⁷ <http://www.tobacco.ucsf.edu/9-chemicals-identified-so-far-e-cig-vapor-are-california-prop-65-list-carcinogens-and-reproductive-t>.

<https://www.lung.org/stop-smoking/smoking-facts/impact-of-e-cigarettes-on-lung.html>

<https://www.fda.gov/tobaccoproducts/labeling/productsingredientscomponents/ucm456610.htm>

<https://e-cigarettes.surgeongeneral.gov/>

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- In addition to nicotine, the aerosol that users inhale and exhale from e-cigarettes can potentially expose both themselves and bystanders to other harmful substances, including heavy metals, volatile organic compounds, and ultrafine particles that can be inhaled deeply into the lungs.¹⁸
- More than 75% of flavored e-cigarette liquids contain Diacetyl, a flavoring chemical linked to cases of severe respiratory disease.¹⁹
- f. Requiring tobacco and inhalant delivery system retailers in Clackamas County to be licensed will allow Clackamas County to assist local business in complying with and discourage violations of federal, state and local laws intended to regulate tobacco and inhalant delivery system sales and use, including the illegal sales of tobacco and inhalant delivery system products to minors and the illegal purchase of tobacco and inhalant delivery system products by minors;
 - Tobacco Retail Licensing has been effective in reducing youth access to illegal tobacco, e-cigarettes and inhalant delivery systems.^{20,21, 22}
- g. Implementation of tobacco and inhalant delivery system retailer licensing is an evidence-based, cost-effective strategy that can be implemented to improve the health, safety, and welfare of our community.

<https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/TOBACCPREVENTION/SMOKEFREEWORKPLACELAW/Pages/e-cigarettes.aspx>

¹⁸ Office of the Surgeon General. *E-cigarette Use among Youth and Young Adults: A Report of the Surgeon General*. Washington, DC: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention; 2016. Accessed at

https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf

¹⁹ Roeder A. "Chemical flavorings found in e-cigarettes linked to lung disease." Accessed at <http://consumer.healthday.com/cancer-information-5/misc-tobacco-health-news-666/millions-of-u-s-teens-exposed-to-e-cigarette-ads-cdc-706734.html>

²⁰ American Lung Association. California Center for Tobacco Policy and Organizing, Tobacco Retail Licensing is Effective, September 2018. Accessed at <https://center4tobaccopolicy.org/wp-content/uploads/2018/09/Tobacco-Retailer-Licensing-is-Effective-September-2018.pdf>

²¹ American Lung Association. California Center for Tobacco Policy & Organizing, Becoming a Policy Wonk on Tobacco Retail Licensing, June 2018. Accessed at <https://center4tobaccopolicy.org/wp-content/uploads/2018/06/Becoming-a-Policy-Wonk-on-TRL-2018-06-20.pdf>

²² Astor RL, Urman R, Barrington-Trimis JL, Berhane K, Steinberg J, Cousineau M, Leventhal AM, Unger JB, Cruz T, Pentz MA, Samet JM, McConnell R. Tobacco retail licensing and youth product use. 2019. *Pediatrics*. Accessed at <https://www.ncbi.nlm.nih.gov/pubmed/30617237>

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NOW, THEREFORE, IT IS HEREBY ORDERED:

1. It is the Board of Health's policy to reduce preventable illness and disease and premature death in Clackamas County by supporting regulation of retail sales and use of tobacco and inhalant delivery systems in the County. This policy is intended to give guidance for policies and procedures, including education for retailers about local, state and federal laws pertaining to the sales of tobacco and inhalant delivery systems, enforcement mechanisms, and penalties for violations;
2. It is the Board of Health's policy to reduce addiction, preventable disease, and premature death by supporting prohibitions on sales to and purchase and use by minors of tobacco and inhalant delivery systems. This policy is not intended to expand or reduce federal or state laws that regulate the sale or distribution of tobacco and inhalant delivery systems or to alter related penalties.
3. It is the Board of Health's policy to reduce addiction, preventable illness and disease, and premature death by supporting prohibitions on use of inhalant delivery systems in Clackamas County in any place where smoking and use of tobacco products is prohibited;
4. The Board of Health supports the Local Public Health Authority's intent to adopt policies and procedures for tobacco and inhalant delivery system retailers in Clackamas County;
5. The Board of Health directs the Local Public Health Authority to adopt policies and procedures to implement and enforce prohibitions on the use of inhalant delivery systems in Clackamas County in any place where smoking and use of tobacco products is prohibited, sales to minors, and purchase and use by minors;
6. When the Local Public Health Authority develops policies and procedures the Board of Health will adopt them prior to their implementation;
7. The Board of Health directs the Local Public Health Authority to form a Rules Advisory Committee to provide input on and review of the policies and procedures developed by the Local Public Health Authority.

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DATED this 24th day of January, 2019.

**BOARD OF COUNTY COMMISSIONERS
Acting as the Clackamas County Board of Health**

Chair

Recording Secretary

Protecting Youth Through Tobacco Retail Licensing - *Update*

Board of County Commissioners

Policy Session

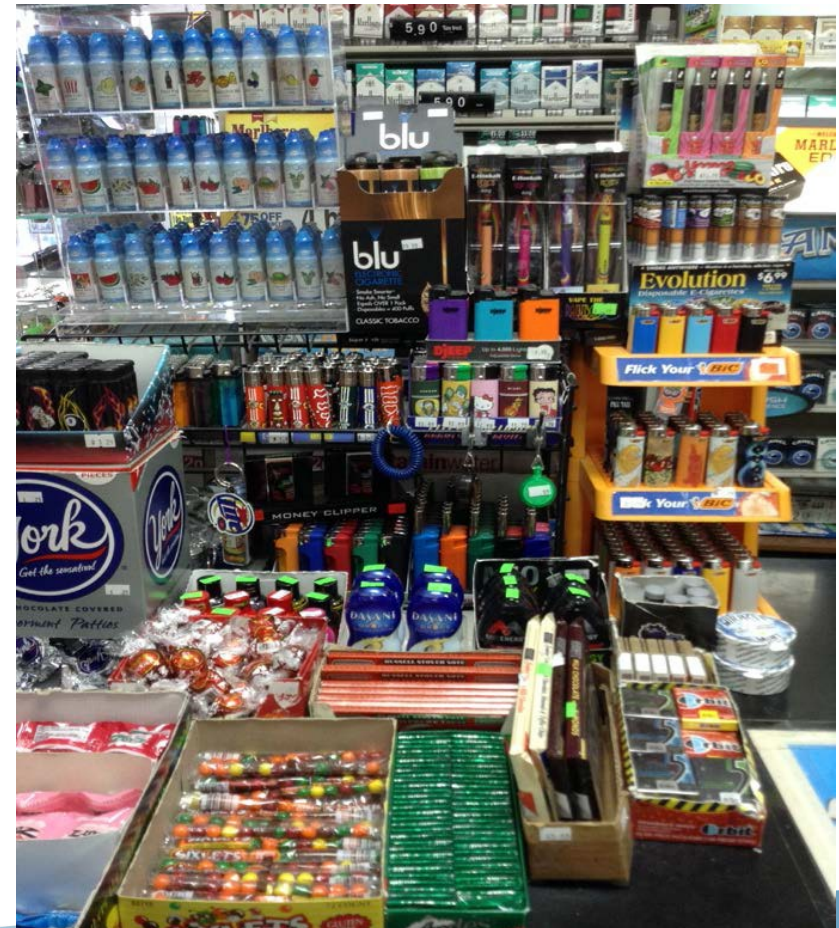
January 8, 2019

Objectives

- Present results of community & retailer engagement
- Propose next steps to move forward with TRL

What is Tobacco Retail Licensing (TRL)?

- Enforces current tobacco control laws
- Requires businesses to purchase a license to sell tobacco and nicotine products



Why is TRL Important Now?

- Surgeon General declared youth e-cigarette use an epidemic
- Enforce Tobacco 21 and other tobacco laws
- Public Health received grant funding to advance tobacco prevention policy

Community Engagement Overview

In the last year, Public Health has engaged with:



Cities

Chambers
of
Commerce

Schools &
students

Community
Coalitions

Tobacco
Retailers

Tobacco Retailer Engagement Process

Public Health worked with PGA to advise on outreach and engagement methods

1. Mailed letters to 293 known retail locations
2. Created a TRL FAQ webpage
3. Created an online survey for retailers
4. Hosted two listening sessions with retailers
 - Facilitated by Resolution Services
 - Sandy on Nov. 20, Oregon City on Nov. 27
5. Mailed post-card reminding retailers of last listening session

Tobacco Retailer Response

Public Health has received responses from five businesses and one store association

- Received 2 phone calls requesting more information
- 2 responses to online feedback survey
 - one respondent sent letter to Chair Bernard and Dawn Emerick
- 4 people attended Oregon City listening session, representing 2 businesses

Tobacco Retailer Response

- Disparate impact on small business compared to large chain retailers
- Same licensing burden for those who follow rules and those who do not
- Existing laws do not effectively enforcing age restrictions
- Creating laws and policies does not change behaviors
- Schools and parents are more influential over the decisions of minors.

Public Health Response to Retailers

- We are grateful to retailers who responsibly operate their businesses and comply with current laws. However, 14% of retailers sold tobacco to minors during state inspections from Nov. 2017-Mar. 2018
- TRL would augment the current inspection and enforcement mechanisms by visiting every retailer annually, rather than a random sample
- A strong enforcement strategy with penalties effectively motivates retailers to comply with laws and protects youth
- Studies show that the density and proximity of tobacco retailers to schools impacts youth tobacco rates. TRL ensures that tobacco laws are being followed, decreasing youth access to tobacco products.

TRL Supporters

Signed resolutions:

- Milwaukie
- West Linn
- Gladstone
- Oregon City

Letters from:

- Clackamas County Superintendents
- City of Sandy
- Oregon City Together
- Preventing Tobacco Addiction Foundation
- Vibrant Future Coalition

TRL Next Steps

2018

- Community Engagement

2019

- Present results of community engagement (today)
- Present TRL resolution to Commission convened as the Board of Health (BoH) (January 24)
- Present TRL ordinance (TBD)
- Facilitate Rules Advisory Committee (TBD)
- Present rules from RAC to BoH (TBD)
- End of grant funding (June 30)

2020

- Launch TRL January 1, 2020
- Start annual TRL inspections July 2020

Conclusion

- Surgeon General declared youth e-cigarette use an epidemic. TRL is a best practice policy to address youth-access in the retail environment
- TRL is needed to enforce Tobacco 21 and other tobacco laws
- Public Health received grant funding to do this work

Protecting Youth Through Tobacco Retail Licensing - *Update*

Board of County Commissioners

Policy Session

October 2, 2018

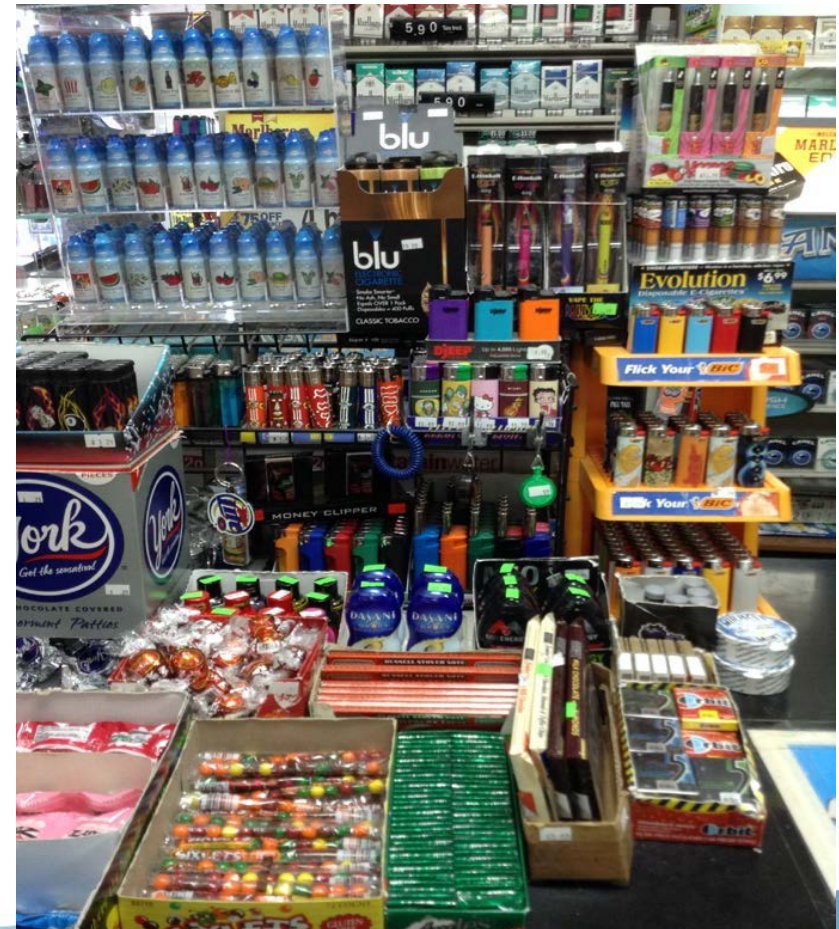
Objectives

- Recap Tobacco Retail Licensing
- Summarize results of economic impact & community engagement
- Propose next steps to move forward with TRL



What is Tobacco Retail Licensing (TRL)?

- Requires businesses to purchase a license to sell tobacco & nicotine products
- Retailer education & outreach
- Annual license fee
- Enforcement system
- May include plug-ins (density caps, school buffers)



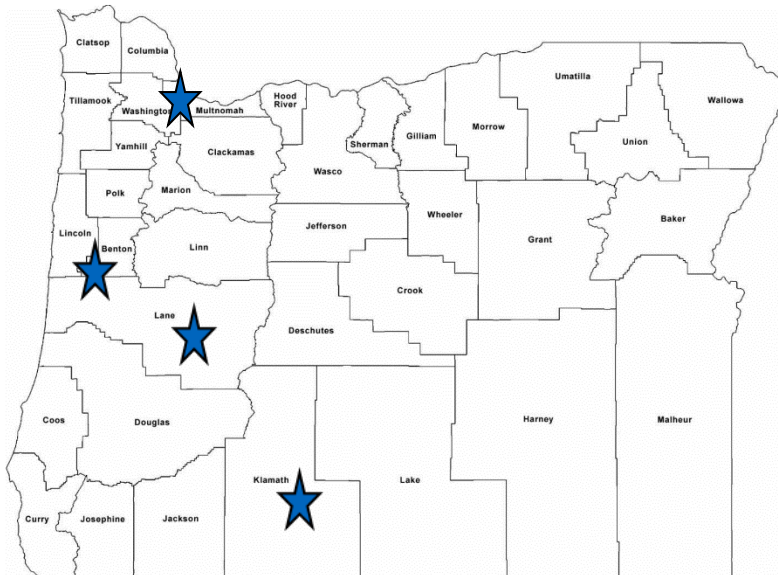
Why is TRL Important?

- Youth are vulnerable to nicotine
- Inequities persist among tobacco users
- Establish relationships with retailers
- Enforce Tobacco 21 and other tobacco laws
- Decrease illegal tobacco sales to minors

TRL in Oregon

Jurisdictions Passed TRL

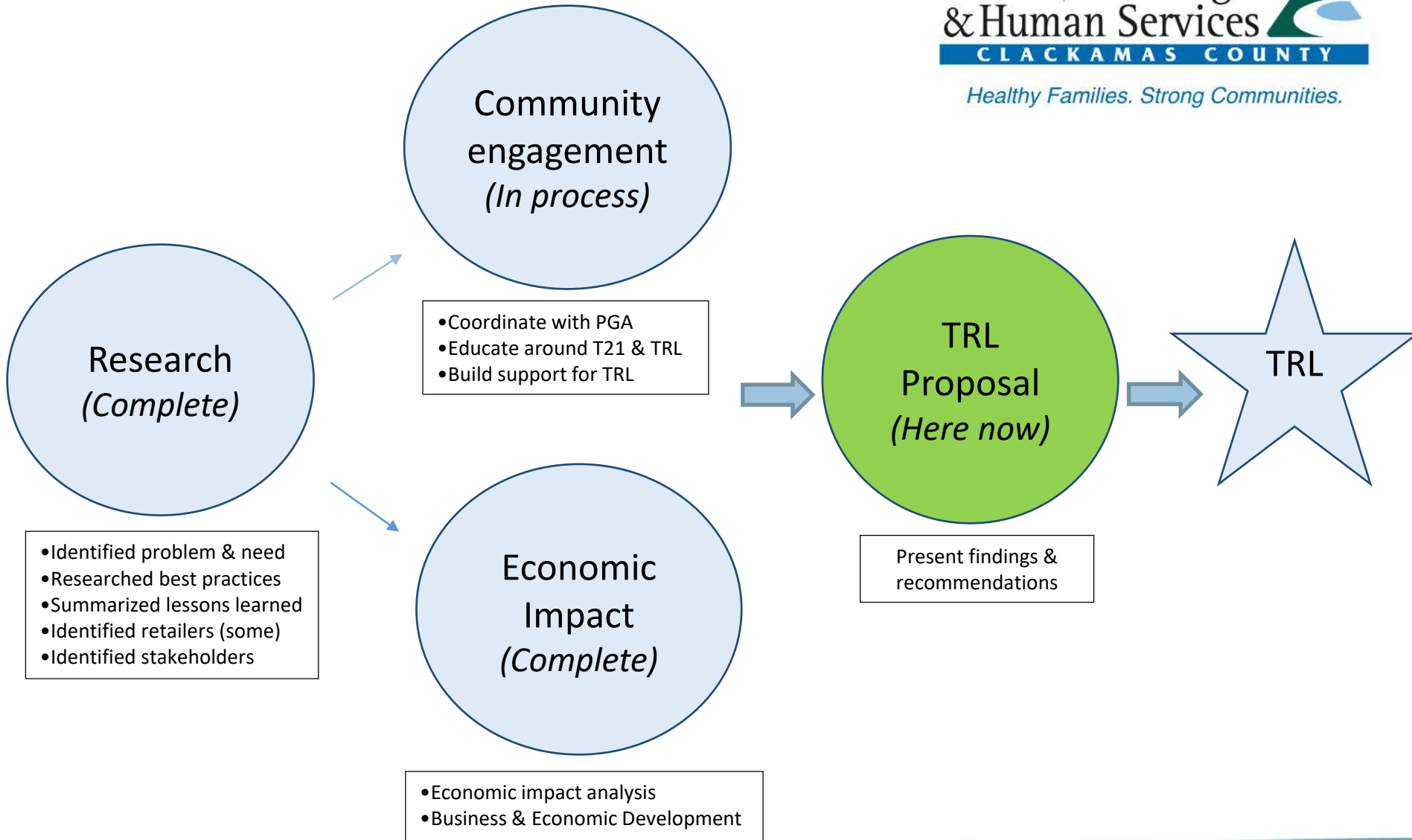
- Benton County
- Klamath County
- Lane County
- Multnomah County



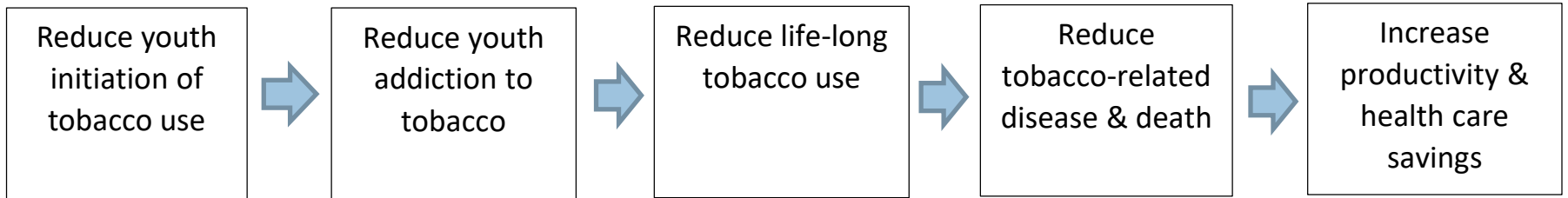
Lessons Learned

- Most effective county-wide
- Community engagement critical for success
- License fee to cover education & enforcement
- Political will, leadership, PGA and county counsel

Process to Pass TRL



Economic Impact



No significant adverse economic impact

	Total	Reduction
Employees (FTE)	7,127	-4.12
Labor income	\$204,899,969	-\$129,185

Community engagement

- Educate stakeholders about Tobacco 21 and TRL
- Garner support for Tobacco Retail Licensing and time, place, manner policies that reduce youth access to tobacco and nicotine products
- Established outreach plan with PGA
- Presented to city councils July - September
- Presenting to chambers of commerce September – October
- School superintendents October 10th

Timeline

2018

- Present TRL ordinance to BCC by December

2019

- Facilitate Rules Advisory Committee
- Collect resolutions / IGAs from cities
- Educate tobacco retailers on TRL (ongoing)

2020

- Launch TRL January 1, 2020
- Tobacco retailers apply for licenses by June 30, 2020
- Start annual TRL inspections July 2020

2021

- Tobacco retailers renew licenses (annually)
- Start annual Minimum Legal Sales Age (MLSA) Inspections
- Fines / civil penalties begin

Summary / Conclusion

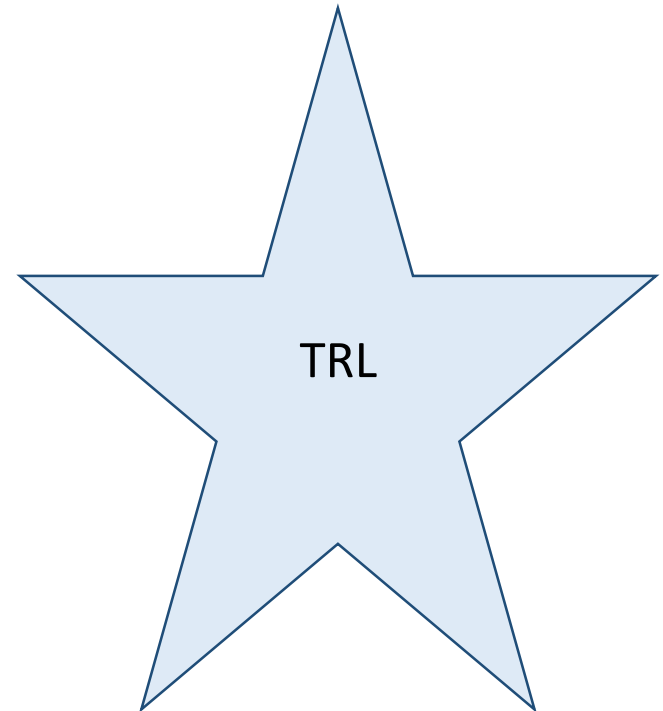
- TRL decreases sales of tobacco to minors
- TRL is needed to enforce Tobacco 21
- City councils support TRL
- TRL will not adversely effect businesses
- TRL is a best practice to reduce addiction to nicotine, chronic disease and tobacco-related death

Protecting Youth Through Tobacco Retail Licensing

Board of County Commissioners
Policy Session
January 30, 2018

Objectives

- Present the need for TRL
- Explain TRL and the benefits
- Propose a process to move forward with TRL



Youth are vulnerable to nicotine

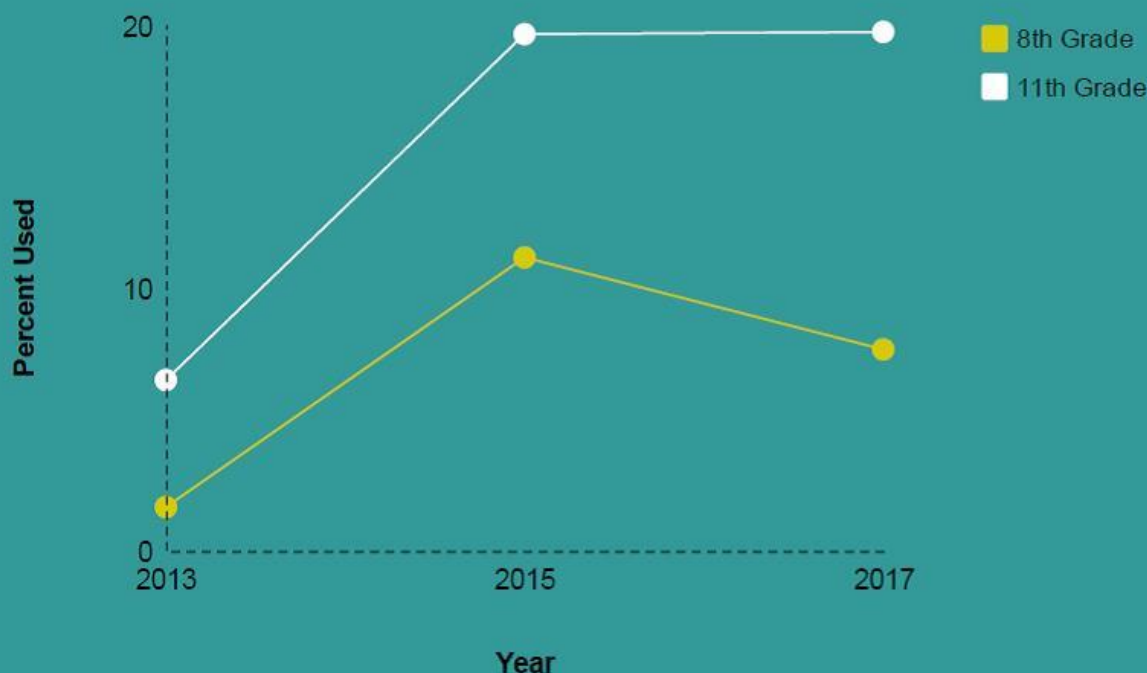
Clackamas County 11th graders in last 30 days....

- 25% used any tobacco product (including vaping products)
- 41% have used any form of tobacco before age 18
- 1 in 3 youth said it would be “very easy” to get tobacco



YOUTH SMOKING TRENDS

Clackamas County Youth E-Cigarette Use

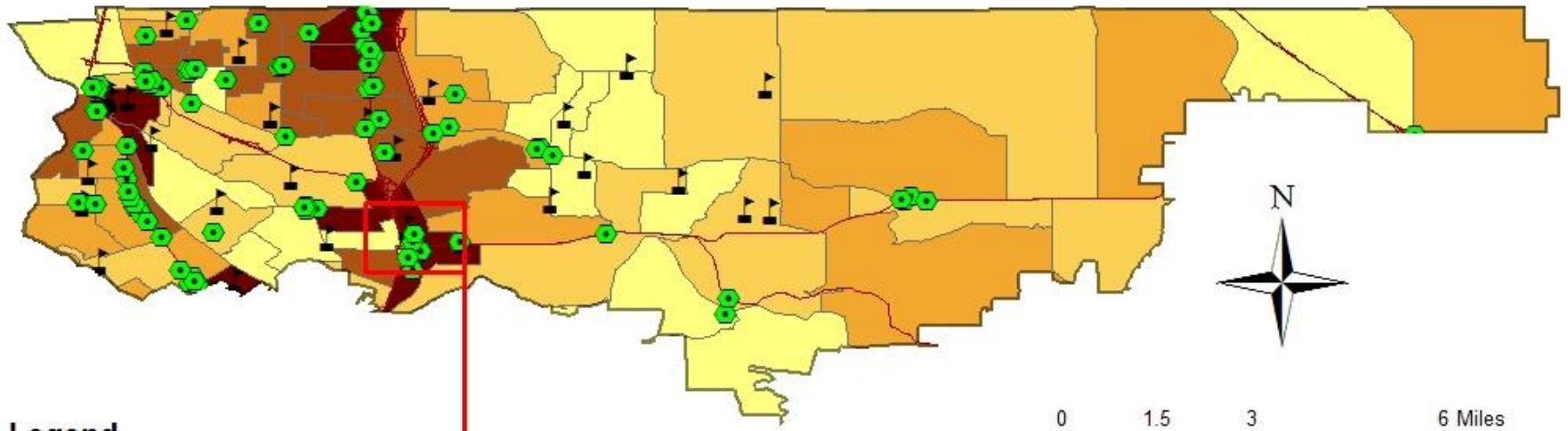


Adolescents of all ages show increased use of e-cigarettes and vaping. In 2013 1.6% of 8th graders and 6.5% of 11th graders had used electronic smoking devices in the past 30 days. In 2015 11.1% of 8th graders and 19.6% of 11th graders had used an electronic smoking devices in the past 30 days. These rates started to stabilize in 2017, with 8th grade usage decreasing 3.5%, and 11th grade usage increasing 0.1%.

Inequities persist among tobacco users

- Tobacco retailers cluster in neighborhoods with higher rates of poverty.
- High densities of tobacco retailers are linked to increased smoking rates among adults living in surrounding neighborhoods.

North Clackamas Health Equity Zone Tobacco Retailers, Schools, and Percentage in Poverty: By Census Block Group

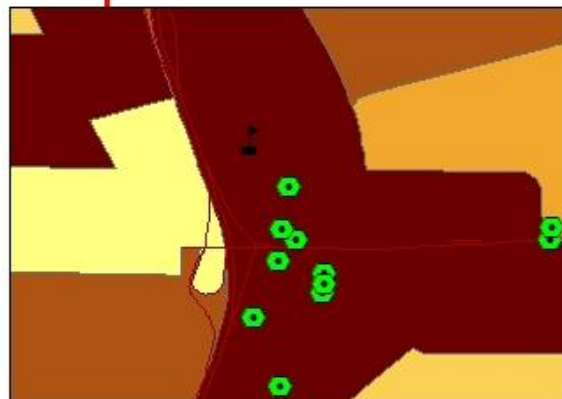


Legend

- Tobacco Retailers
- Schools
- Highways

Percent in Poverty

- 0 - 4
- 5 - 8
- 9 - 13
- 14 - 22
- 23 - 45



0 1.5 3 6 Miles



Public Health
Prevent. Promote. Protect.

Health, Housing
& Human Services 
CLACKAMAS COUNTY

Clackamas County Public Health Division
Data Source: ACS 5-year estimates, 2011-2015,
Oregon Department of Education, and
Clackamas County Health Division

Proposal

To reduce youth access to tobacco and preserve the public health and safety of Clackamas County communities, the H3S / Public Health Division proposes licensing tobacco retailers.

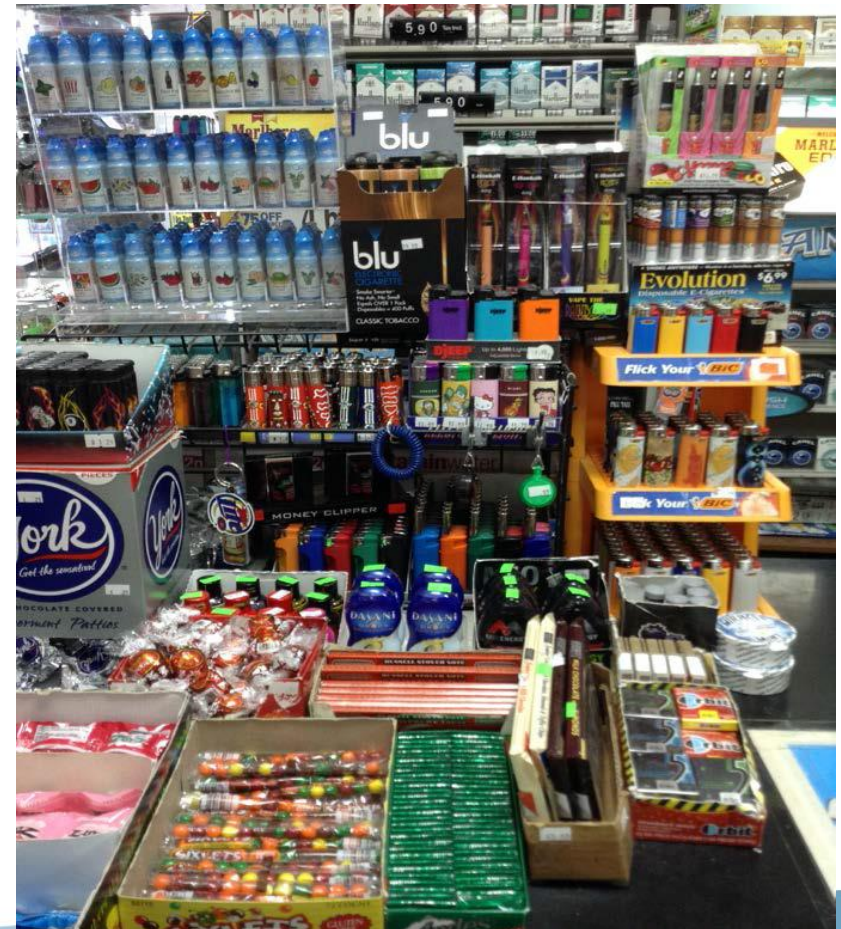
Tobacco Legislation

2017 summary

- Tobacco taxes did not increase
- Tobacco retail license did not pass
- Legal age to purchase tobacco raised to 21

What is Tobacco Retail Licensing (TRL)?

- Requires businesses to purchase a license to sell tobacco & nicotine products
- Retailer education & outreach
- Annual license fee
- Enforcement system
- May include plug-ins (density caps, school buffers)



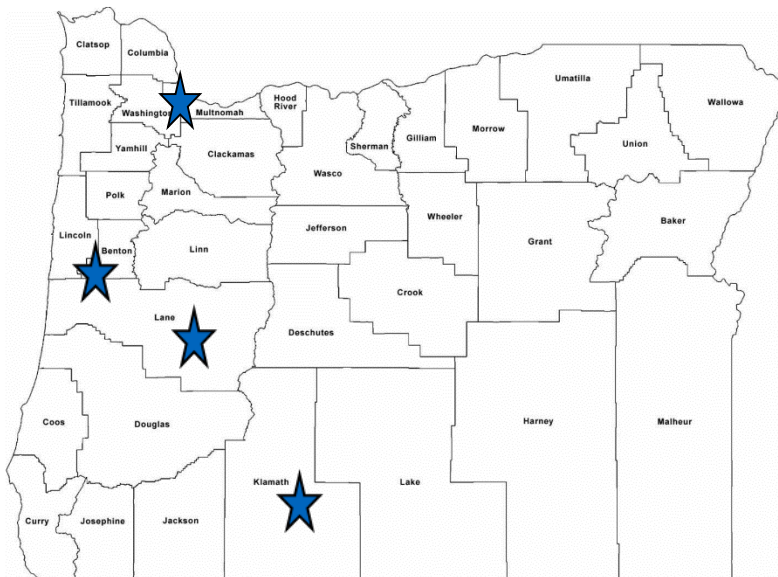
Why is TRL Important?

- Identifies retailers
- Opportunity for relationships with retailers (similar to restaurant inspections)
- Enforce Tobacco 21 and other tobacco laws
- TRL effectively decreases illegal tobacco sales to minors

TRL in Oregon

Jurisdictions Passed TRL

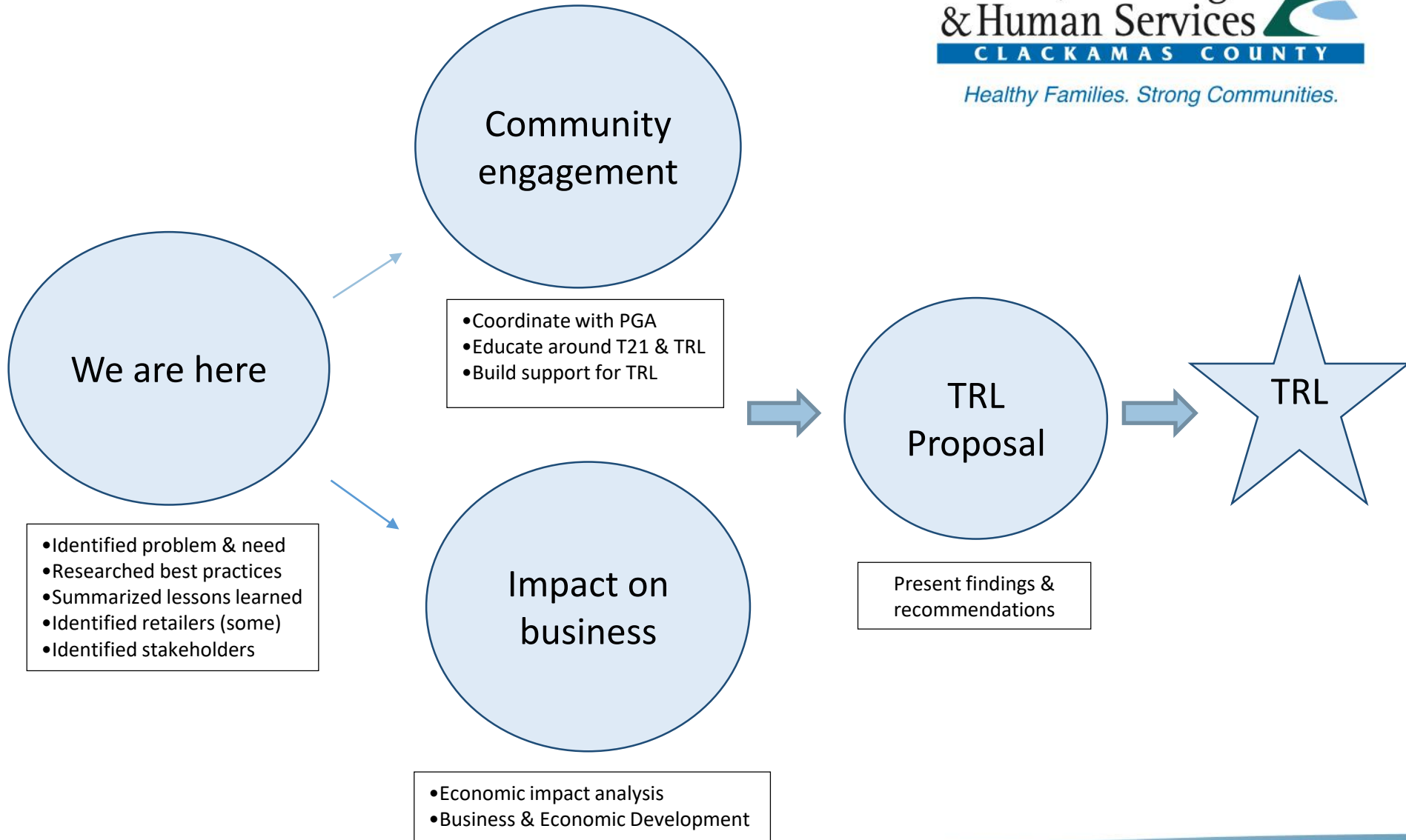
- Benton County
- Clackamas County
- Lane County
- Multnomah County



Lessons Learned

- Most effective county-wide
- Community engagement critical for success
- License fee to cover education & enforcement
- Political will, leadership, PGA and county counsel

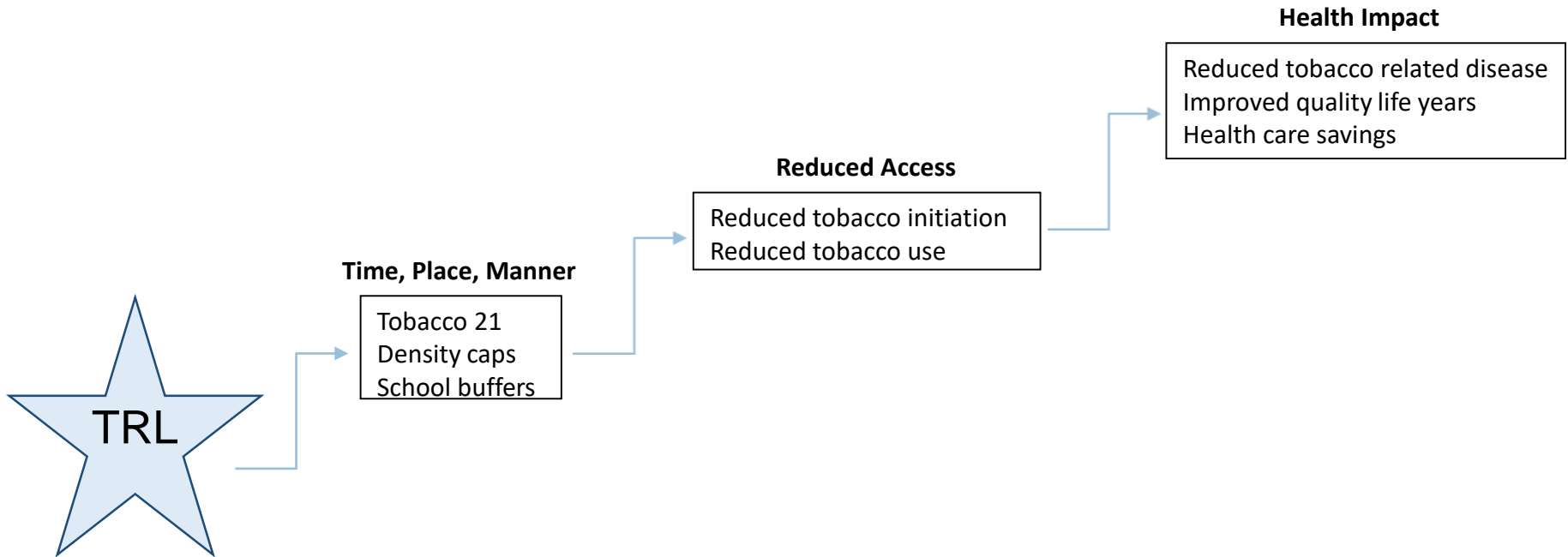
Process to Pass Tobacco Retail Licensing (TRL)



Community engagement

- Educate stakeholders about the impact of tobacco, Tobacco 21 and TRL
- Stakeholders include city and hamlet leaders, school districts, prevention coalitions, business & economic development
- Garner support for Tobacco Retail Licensing and time, place, manner policies that reduce youth access to tobacco and nicotine products
- Proposed timeline is spring – summer 2018
- Finalize and implement outreach plan with PGA. Strategies include one-on-one interviews, public presentations, community forums, round table discussions, on-line feedback

Health Impact of TRL



Protecting Youth Through Tobacco Retail Licensing

Clackamas County Public Health Division

Dawn Emerick, Ed.D, Director

Objectives

Explain Tobacco Retail
Licensing and the benefits

Gain Chamber's support for
county-wide TRL



Public Health Values

Healthy and safe communities for everyone to
live, work, learn, play and thrive.



Image: Oregon City Open Air Antique Fair

Chambers in Action

North Carolina, Indiana, Kentucky, Missouri

Chambers have endorsed cigarette tax hikes, raising the smoking age to reduce tobacco use

Kansas City

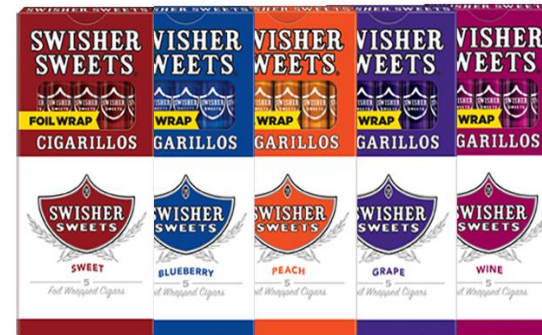
Tobacco 21 is a priority to reduce youth tobacco use up to 25%

Chambers of Commerce around the country have partnered with Public Health because there is a business case for tobacco-policy.

Youth are vulnerable to nicotine

Clackamas County 11th graders in last 30 days....

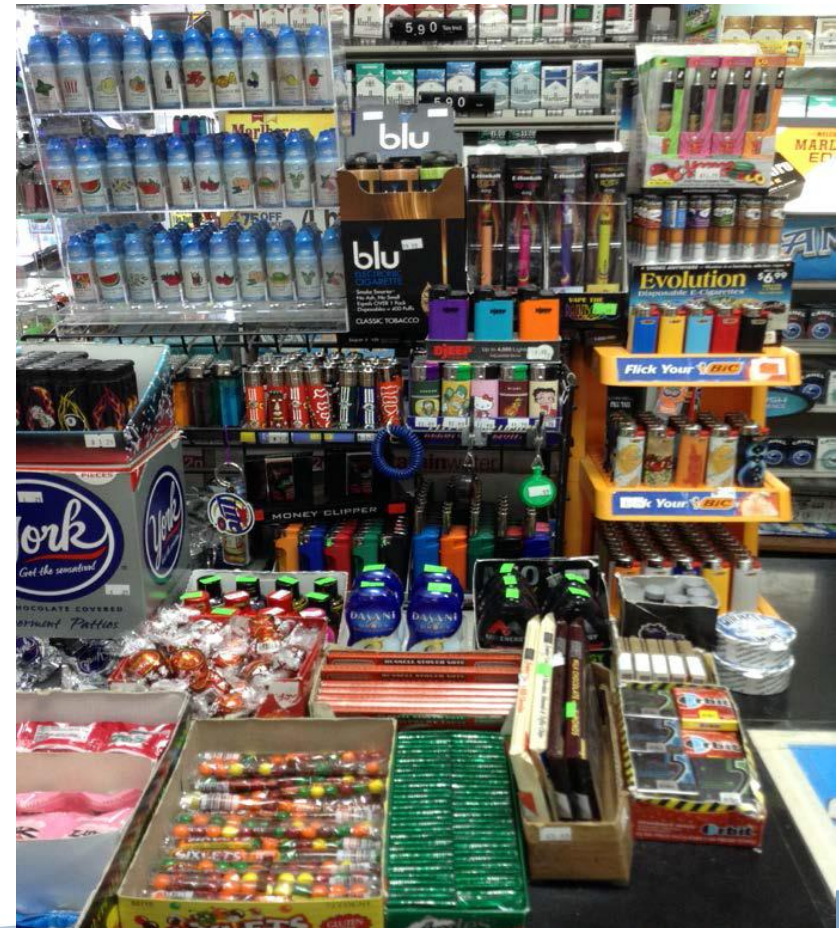
- 25% used any tobacco product
- 41% have used any form of tobacco before age 18
- 1 in 3 youth said it would be “very easy” to get tobacco



Oregon Healthy Teens Survey 2017

What is Tobacco Retail Licensing (TRL)?

- Requires businesses to purchase a license to sell tobacco & nicotine products
- Retailer education & support
- Annual license fee
- Enforcement system



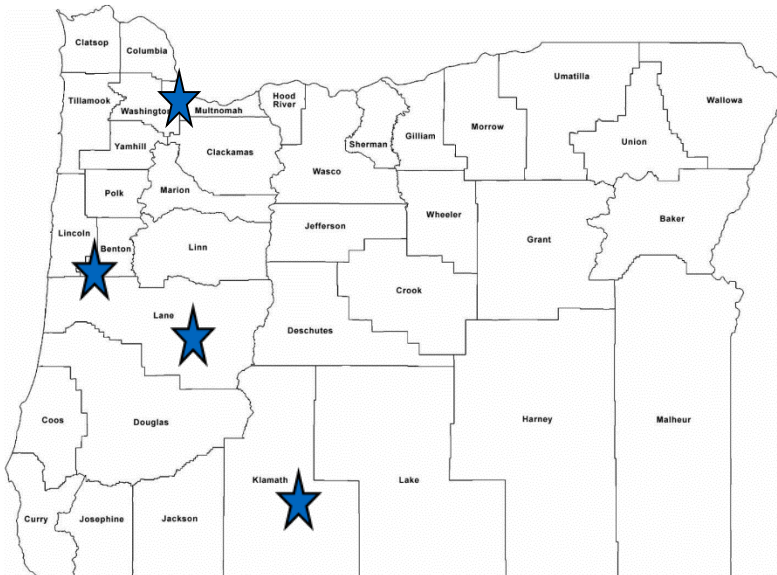
Why TRL?

- Opportunity for relationships with retailers
- Enforce Tobacco 21 and other tobacco laws
- TRL effectively decreases illegal tobacco sales to minors
- Has minimal economic impact on business

TRL in Oregon

Jurisdictions Passed TRL

- Benton County
- Klamath County
- Lane County
- Multnomah County



Lessons Learned

- Most effective county-wide
- License fee to cover education & enforcement
- Public Health Authorities are best positioned to implement TRL

TRL Timeline

2018

- Engage stakeholders.
- Present TRL ordinance to BCC by December.

2019

- Facilitate Rules Advisory Committee.
- Begin educating tobacco retailers on TRL
- Finalize operations

2020

- Retailers apply for license (Jan – June 2020)
- Start inspection July 2020

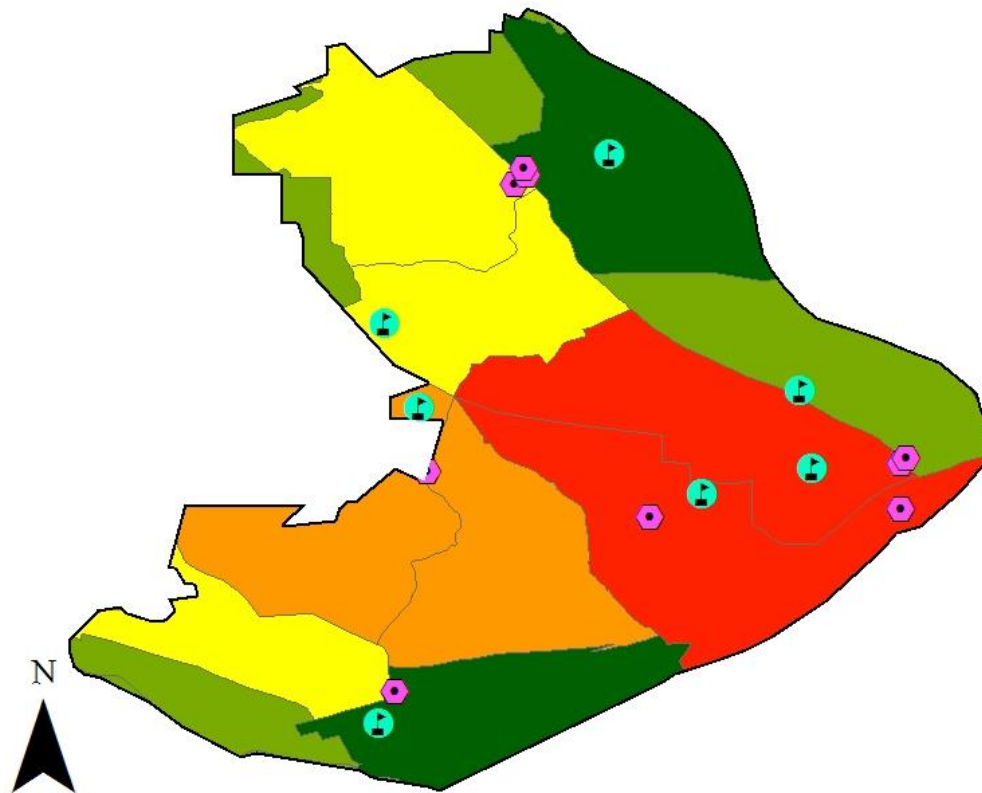
Summary / Conclusion

- TRL decreases sales of tobacco to minors
- TRL is needed to enforce Tobacco 21
- City councils support TRL
- TRL will not adversely effect businesses
- TRL is a best practice to reduce addiction to nicotine, chronic disease and tobacco-related death




THANK YOU!

QUESTIONS?






West Linn: Youth Under 21 and Tobacco Retail Locations



Legend

-  Tobacco Retailers
-  Schools
-  West Linn City Limit

Population Under 21

-  100 - 250
-  251 - 500
-  501 - 750
-  751 - 1000
-  1001 - 2150

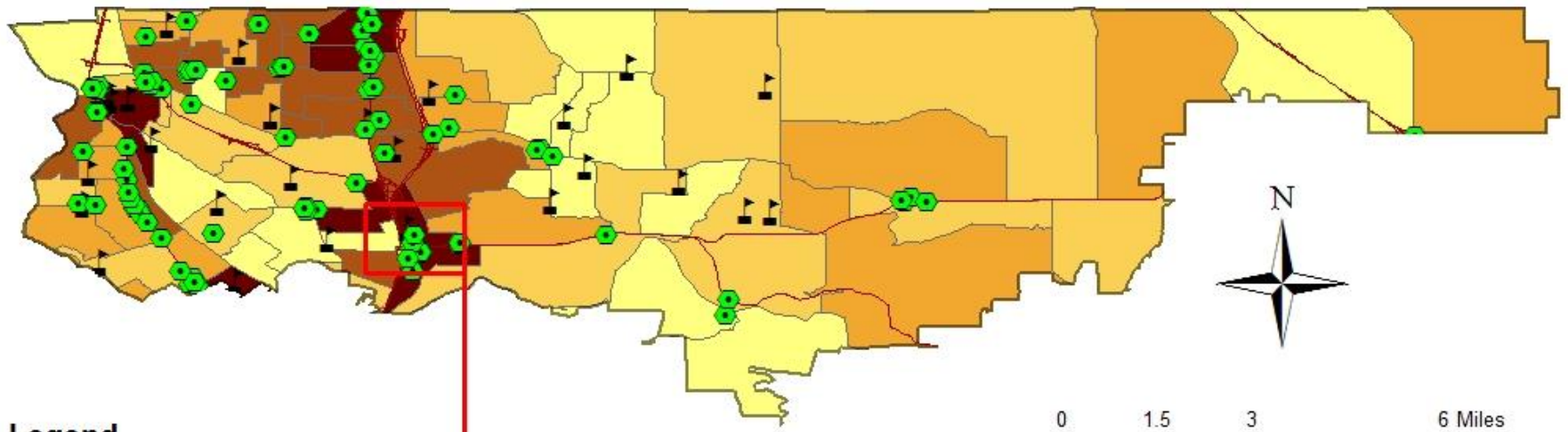
Approximately 7,100 youth under the age of 21 live in the West Linn area. In this same area, there are 9 tobacco retail locations.

Clackamas County Public Health Division, Data Source: ACS 5 year estimate 2012-2016, and Oregon Department of Education




Public Health






North Clackamas Health Equity Zone Tobacco Retailers, Schools, and Percentage in Poverty: By Census Block Group

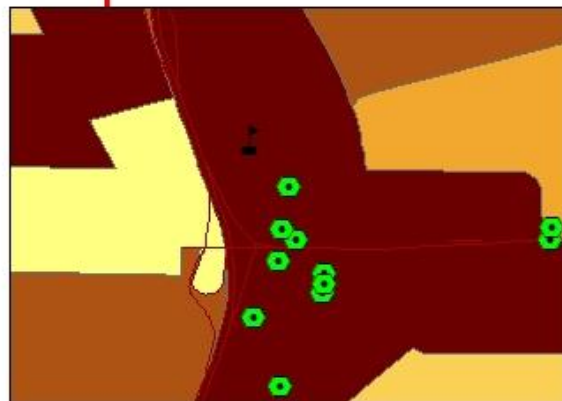


Legend

-  Tobacco Retailers
-  Schools
-  Highways

Percent in Poverty

-  0 - 4
-  5 - 8
-  9 - 13
-  14 - 22
-  23 - 45



0 1.5 3 6 Miles

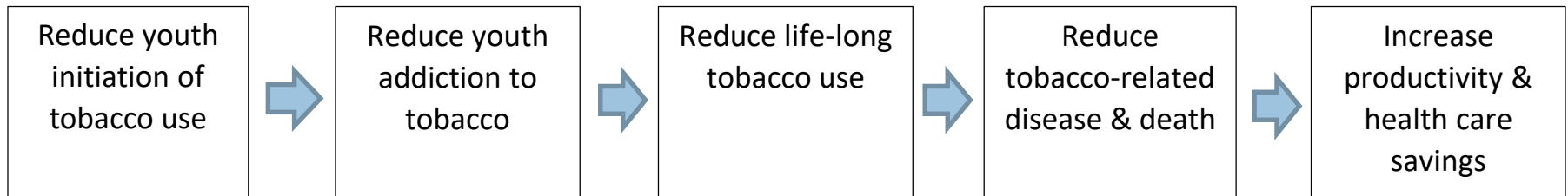


Public Health
Prevent. Promote. Protect.

Health, Housing
& Human Services 
CLACKAMAS COUNTY

Clackamas County Public Health Division
Data Source: ACS 5-year estimates, 2011-2015,
Oregon Department of Education, and
Clackamas County Health Division

Impact of TRL



No significant adverse economic impact

	Total	Reduction
Employees (FTE)	7,127	-4.12
Labor income	\$204,899,969	-\$129,185

Protecting Youth Through Tobacco Retail Licensing

Clackamas County City Managers
May 7, 2018

Rich Swift, Director of Health, Housing and Human Services

Dawn Emerick, Public Health Director

Clackamas County

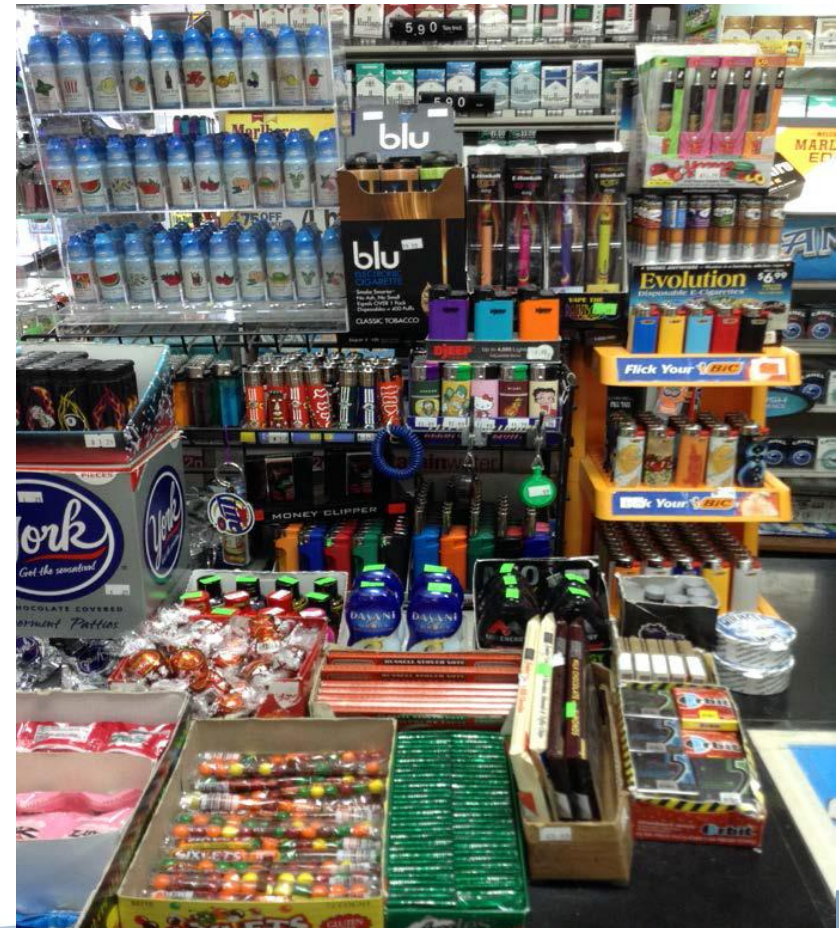
Objective

Explain Tobacco Retail
Licensing and the benefits



What is Tobacco Retail Licensing (TRL)?

- Requires businesses to purchase a license to sell tobacco & nicotine products
- Retailer education & support
- Annual license fee
- Enforcement system



Youth are vulnerable to nicotine

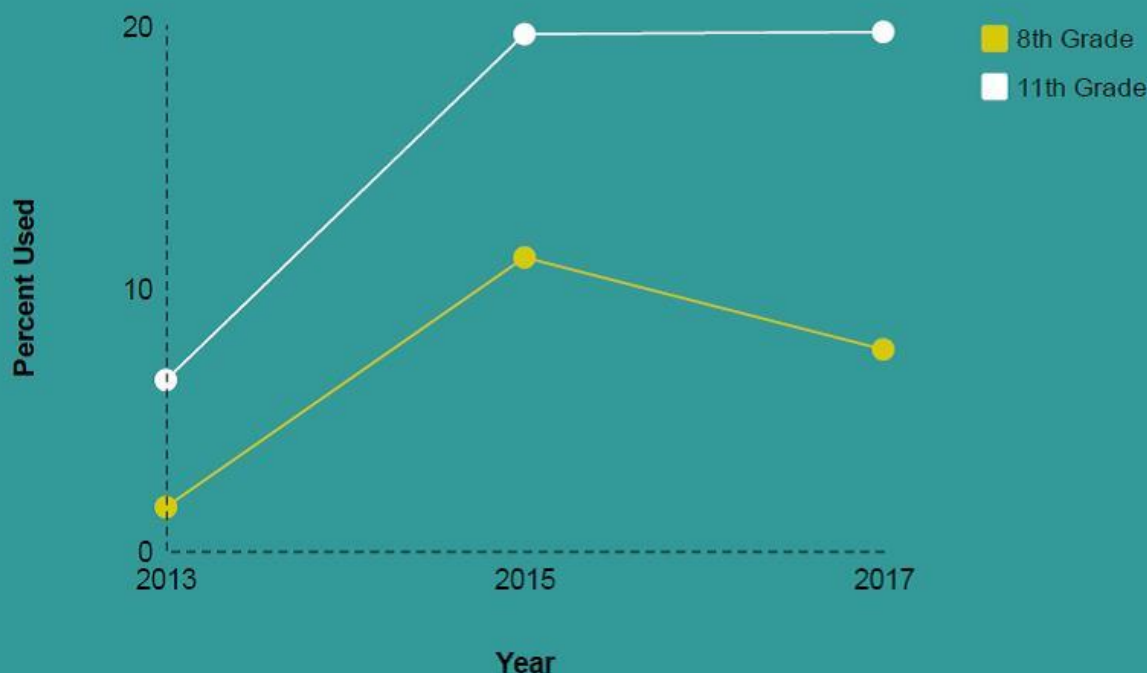
Clackamas County 11th graders in last 30 days....

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- 41% have used any form of tobacco before age 18
- 1 in 3 youth said it would be “very easy” to get tobacco



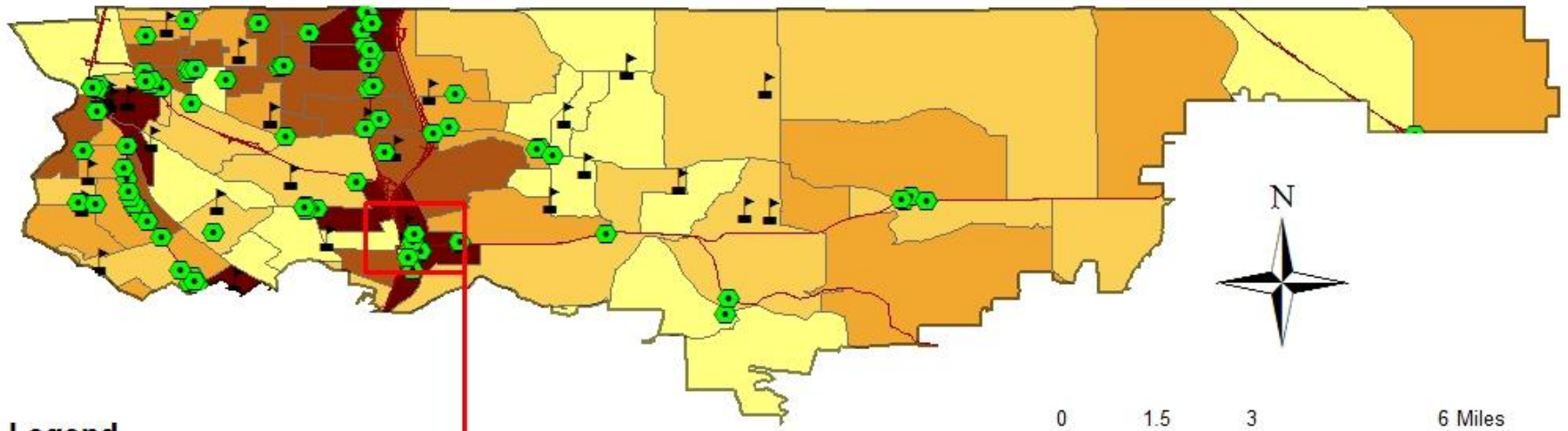
YOUTH SMOKING TRENDS

Clackamas County Youth E-Cigarette Use



Adolescents of all ages show increased use of e-cigarettes and vaping. In 2013 1.6% of 8th graders and 6.5% of 11th graders had used electronic smoking devices in the past 30 days. In 2015 11.1% of 8th graders and 19.6% of 11th graders had used an electronic smoking devices in the past 30 days. These rates started to stabilize in 2017, with 8th grade usage decreasing 3.5%, and 11th grade usage increasing 0.1%.

North Clackamas Health Equity Zone Tobacco Retailers, Schools, and Percentage in Poverty: By Census Block Group

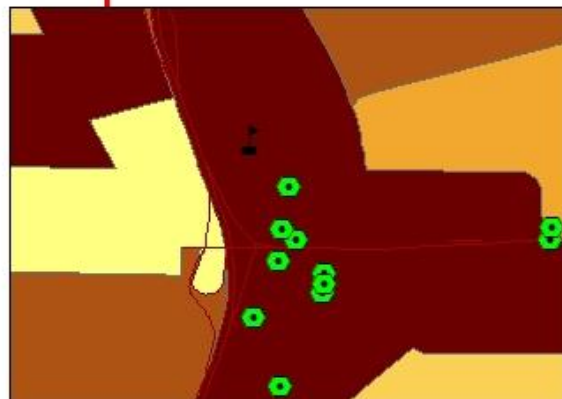


Legend

- Tobacco Retailers
- Schools
- Highways

Percent in Poverty

- 0 - 4
- 5 - 8
- 9 - 13
- 14 - 22
- 23 - 45



0 1.5 3 6 Miles

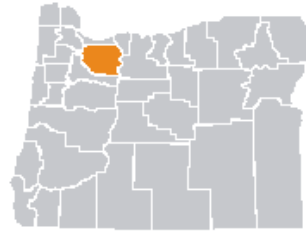


Public Health
Prevent. Promote. Protect.

Health, Housing
& Human Services 
CLACKAMAS COUNTY

Clackamas County Public Health Division
Data Source: ACS 5-year estimates, 2011-2015,
Oregon Department of Education, and
Clackamas County Health Division

Tobacco's toll in one year



50,400 Adults who regularly smoke cigarettes

11,634 People with a serious illness caused by tobacco



595

Tobacco-related deaths



\$118.7 Million

spent on tobacco-related medical care

Population

Youths 88,342
 Adults 297,738
 Total residents 386,080

\$95.1 Million

In productivity losses due to premature tobacco-related deaths

Among tobacco retailers assessed in Clackamas County



More than **1 in 2** was located within 1,000 feet of a school or park



2 in 3 advertised tobacco outside



Nearly **8 in 10** sold tobacco at discounted prices



\$1.23 was the average price of a single, flavored little cigar



The Tobacco Industry spent **\$112 million** a year promoting tobacco products in Oregon stores in 2012.

Components of a comprehensive tobacco prevention program



Oregon's Tobacco Prevention and Education Program (TPEP) supports local public health authorities to serve all 36 counties and nine federally-recognized tribes. TPEP works to:

- Engage communities in reducing the tobacco industry influence in retail stores
- Increase the price of tobacco
- Promote smokefree environments
- Provide support and resources to Oregon smokers who want to quit
- Engage diverse populations of Oregonians

Top three causes of death

- 1) Major cardiovascular disease
- 2) Cancer (lung, breast, lymphoid)
- 3) Chronic lower respiratory diseases (emphysema)

Clackamas County Community Health Assessment

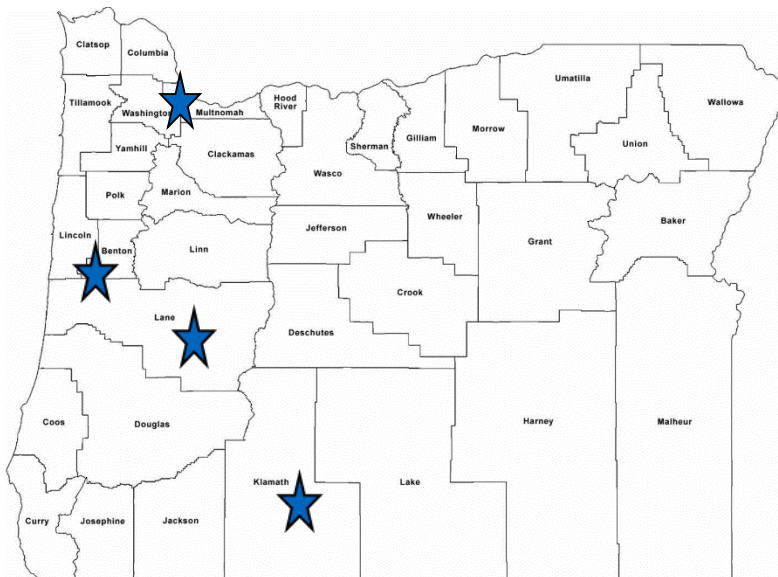
Why TRL?

- Identifies retailers
- Opportunity for relationships with retailers (similar to restaurant inspections)
- Enforce Tobacco 21 and other tobacco laws
- TRL effectively decreases illegal tobacco sales to minors

TRL in Oregon

Jurisdictions Passed TRL

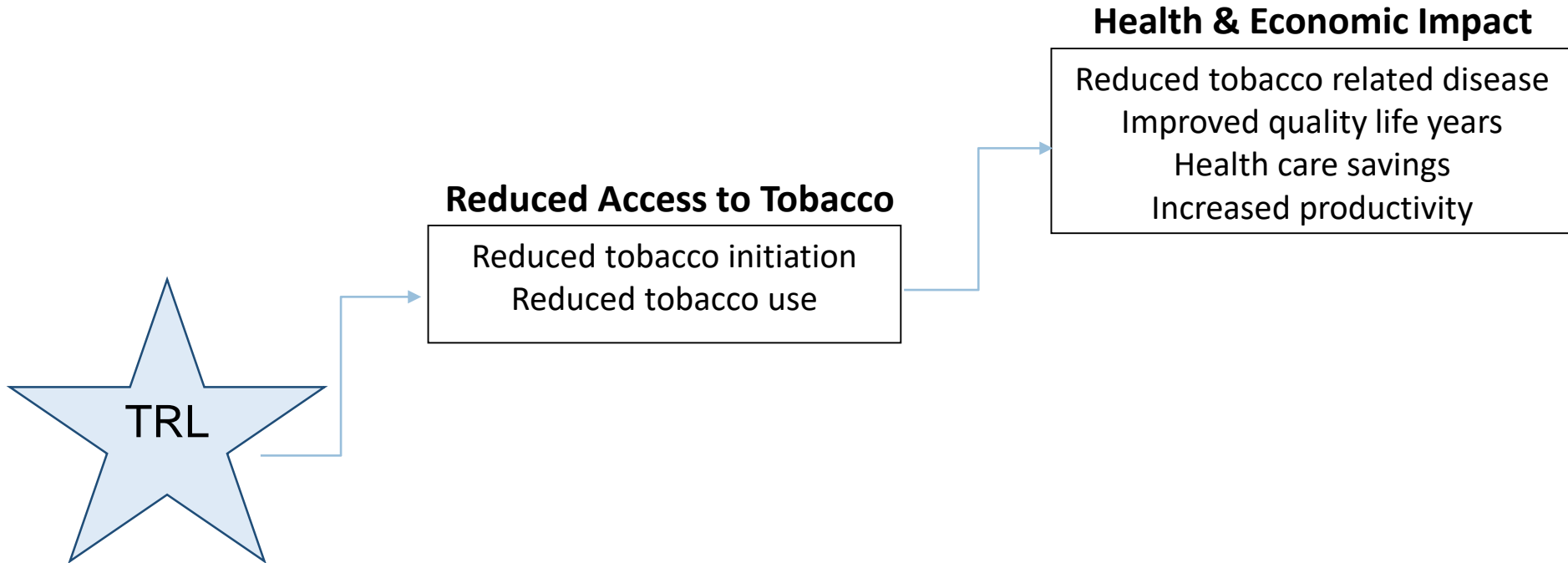
- Benton County
- Clackamas County
- Lane County
- Multnomah County



Lessons Learned

- Most effective county-wide
- License fee to cover education & enforcement
- Local Public Health Authorities are best positioned to implement TRL

Impact of TRL



Protecting Youth Through Tobacco Retail Licensing

Clackamas County Public Health Division

Bentley Moses, MPH, Program Manager

Objectives

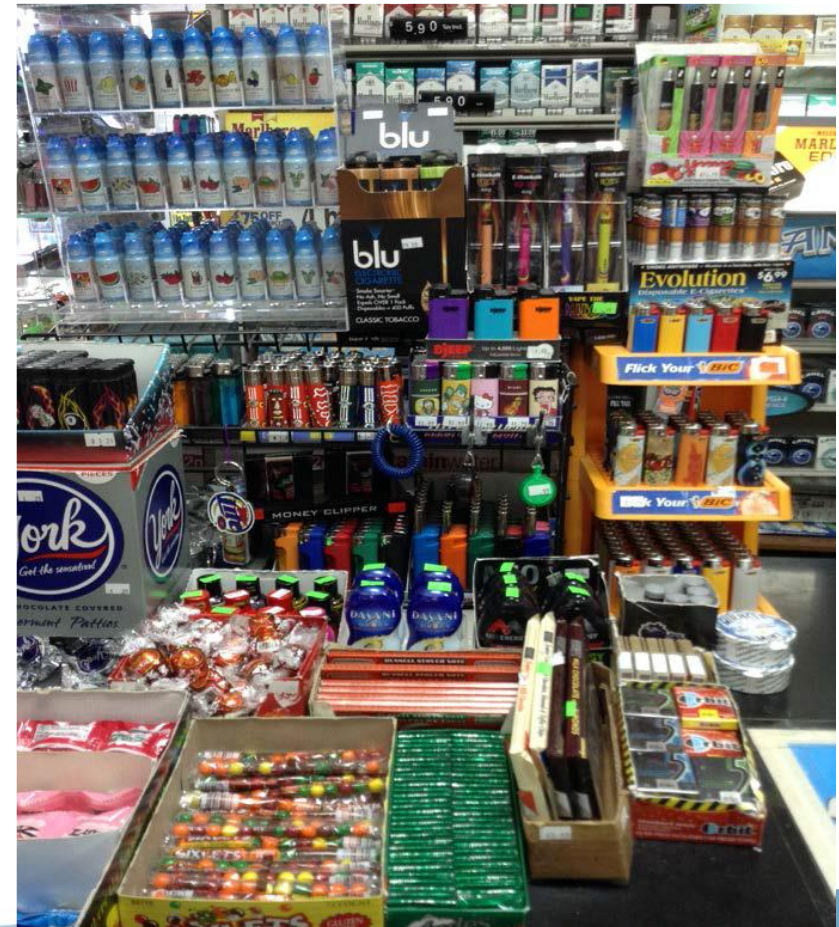
Explain Tobacco Retail
Licensing and the benefits

Gain cities' support for a
county-wide TRL



What is Tobacco Retail Licensing (TRL)?

- Requires businesses to purchase a license to sell tobacco & nicotine products
- Retailer education & support
- Annual license fee
- Enforcement system



Youth are vulnerable to nicotine

Clackamas County 11th graders in last 30 days....

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- 1 in 3 youth said it would be “very easy” to get tobacco

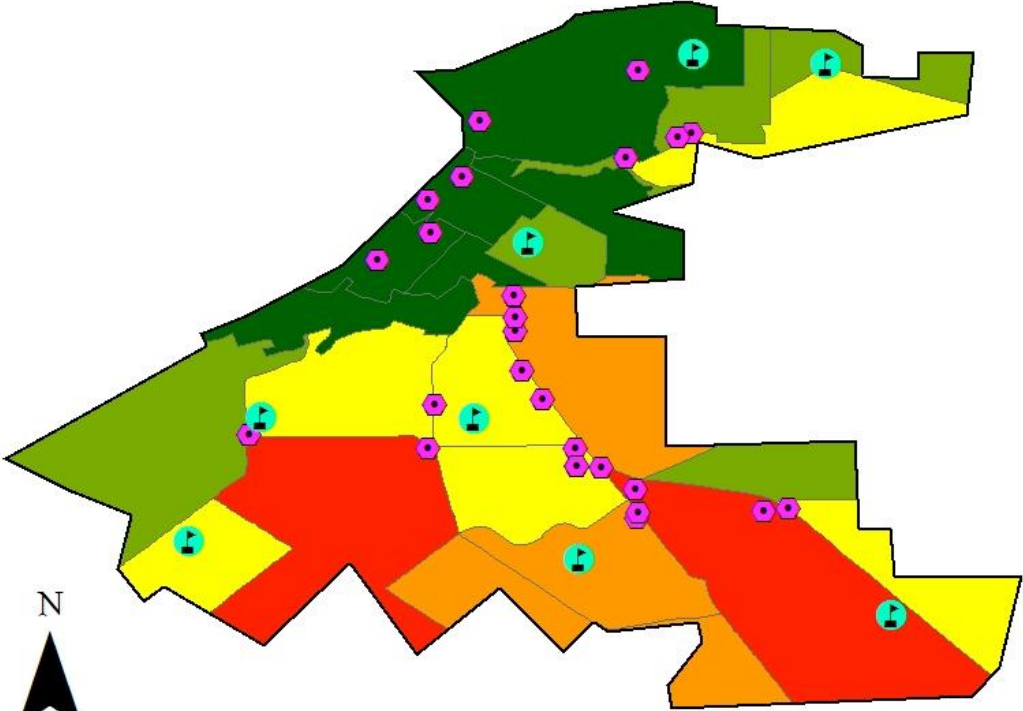


“He Started Vaping As A Teen And Now Says Habit Is Impossible To Let Go”






National Public Radio, 06/07/2018





Oregon City: Youth Under 21 and Tobacco Retail Locations



Legend

-  Tobacco Retailers
-  Schools
-  Oregon City Limits

Population Under 21

-  75 - 250
-  251 - 500
-  501 - 750
-  751 - 1000
-  1001 - 2150



Approximately 11,000 youth under the age of 21 live in the Oregon City area. In this same area, there are 25 tobacco retail locations.

Clackamas County Public Health Division: Data Source: ACS 5 year estimate 2012-2016, and Oregon Department of Education.



Public Health

Health, Housing & Human Services



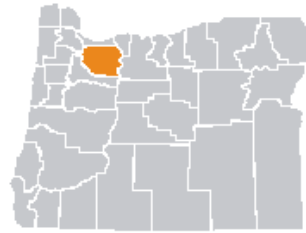
CLACKAMAS COUNTY

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Clackamas County Community Health Assessment

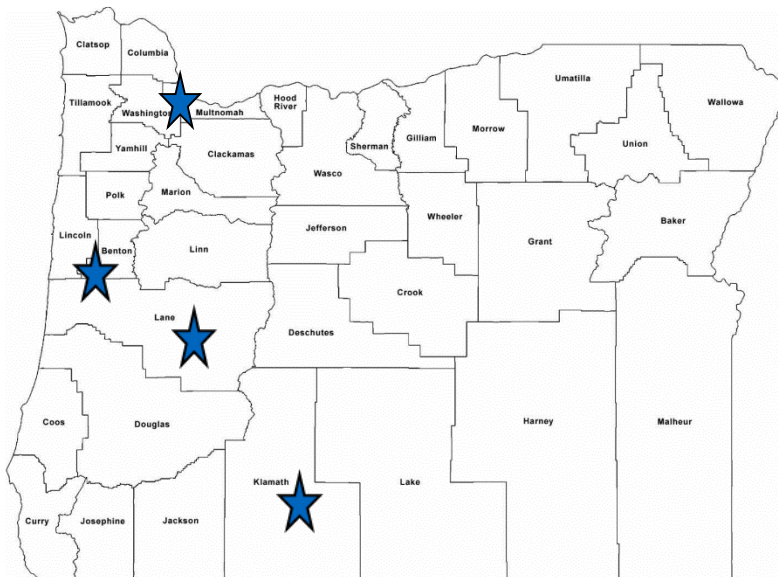
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TRL in Oregon

Jurisdictions Passed TRL

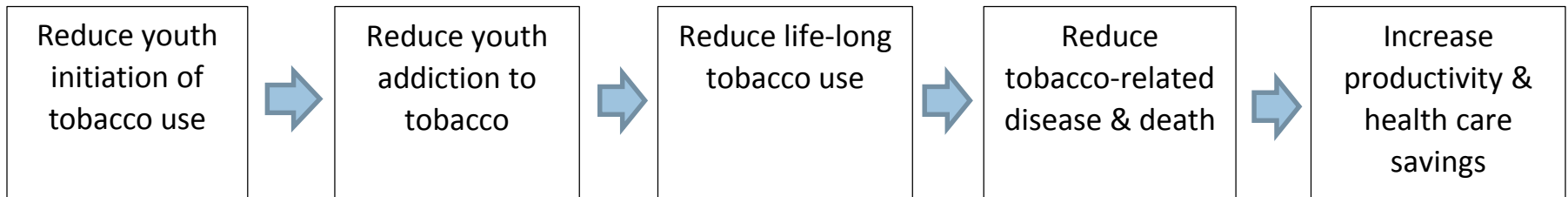
- Benton County
- Clackamas County
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Lessons Learned

- Most effective county-wide
- License fee to cover education & enforcement
- Public Health Authorities are best positioned to implement TRL

Impact of TRL



No significant adverse economic impact

	Total	Reduction
Employees (FTE)	7,127	-4.12
Labor income	\$204,899,969	-\$129,185

THANK YOU!

Protecting Youth Through Tobacco Retail Licensing

Clackamas County Superintendents

Clackamas County Public Health Division

Bentley Moses, MPH, Program Manager

Objectives

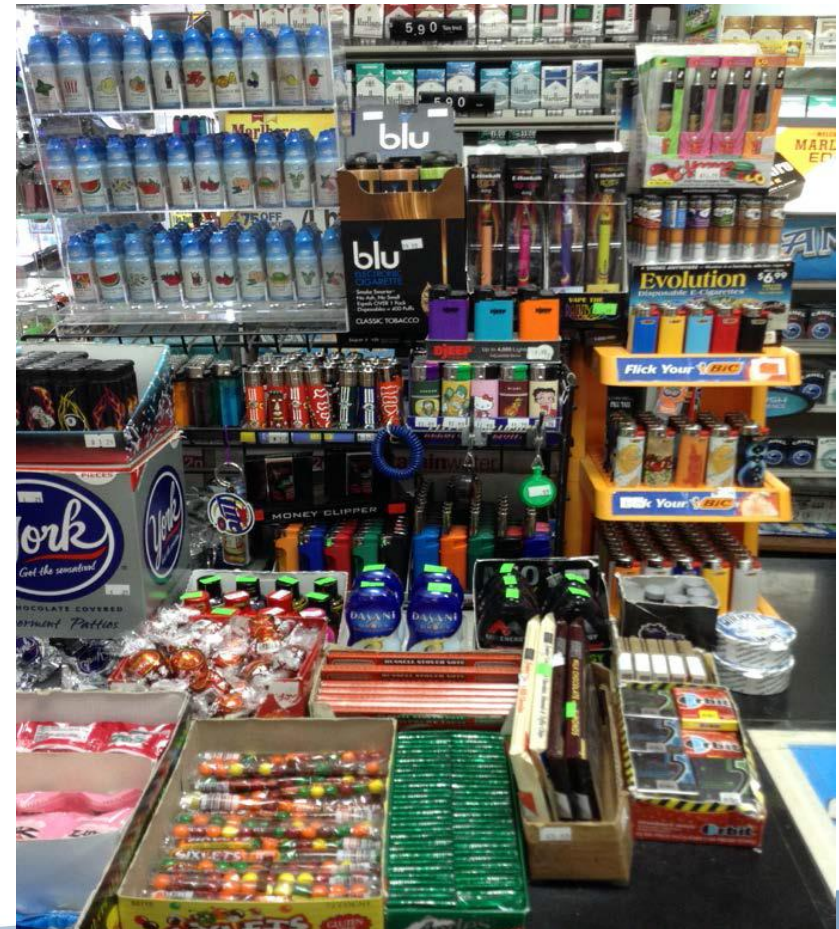
Explain Tobacco Retail
Licensing and the benefits

Gain school districts' support
for a county-wide TRL



What is Tobacco Retail Licensing (TRL)?

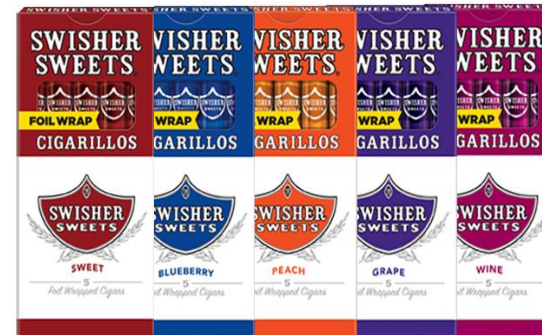
- Requires businesses to purchase a license to sell tobacco & nicotine products
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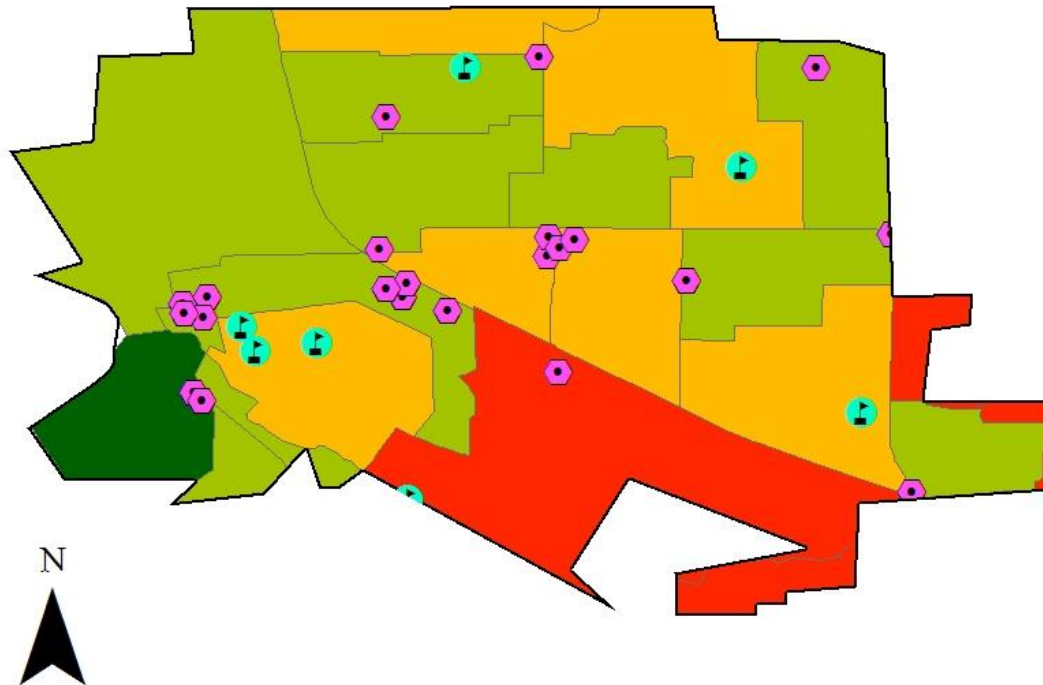


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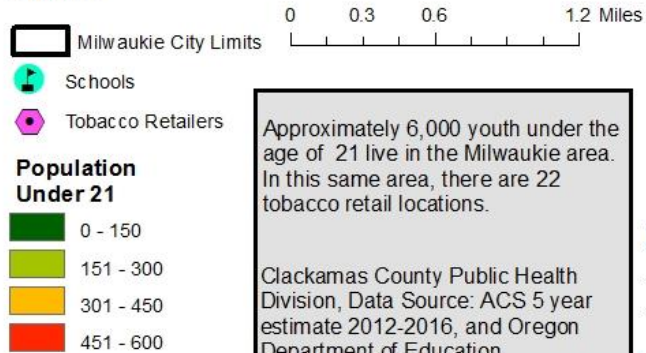


National Public Radio, 06/07/2018

Milwaukie: Youth Under 21 and Tobacco Retail Locations



Legend



Approximately 6,000 youth under the age of 21 live in the Milwaukie area. In this same area, there are 22 tobacco retail locations.

Clackamas County Public Health Division, Data Source: ACS 5 year estimate 2012-2016, and Oregon Department of Education



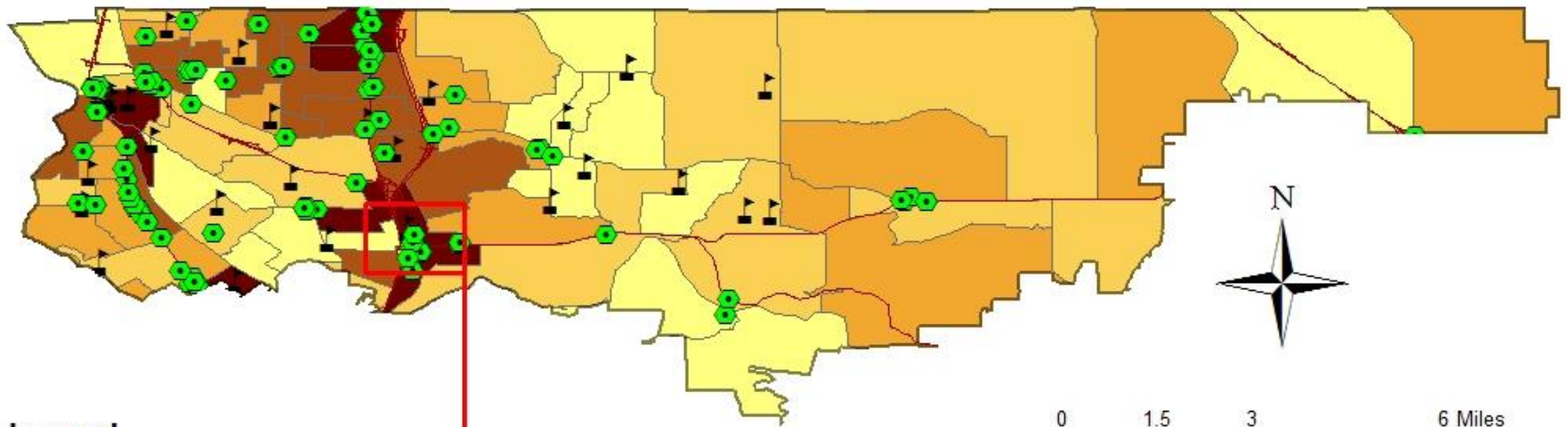
Public Health

**Health, Housing
& Human Services**



CLACKAMAS COUNTY

North Clackamas Health Equity Zone Tobacco Retailers, Schools, and Percentage in Poverty: By Census Block Group



Legend

- Tobacco Retailers
- Schools
- Highways

Percent in Poverty

- 0 - 4
- 5 - 8
- 9 - 13
- 14 - 22
- 23 - 45



0 1.5 3 6 Miles

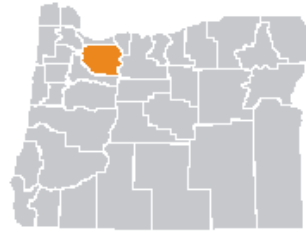


Public Health
Prevent. Promote. Protect.

Health, Housing
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CLACKAMAS COUNTY

Clackamas County Public Health Division
Data Source: ACS 5-year estimates, 2011-2015,
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Clackamas County Community Health Assessment

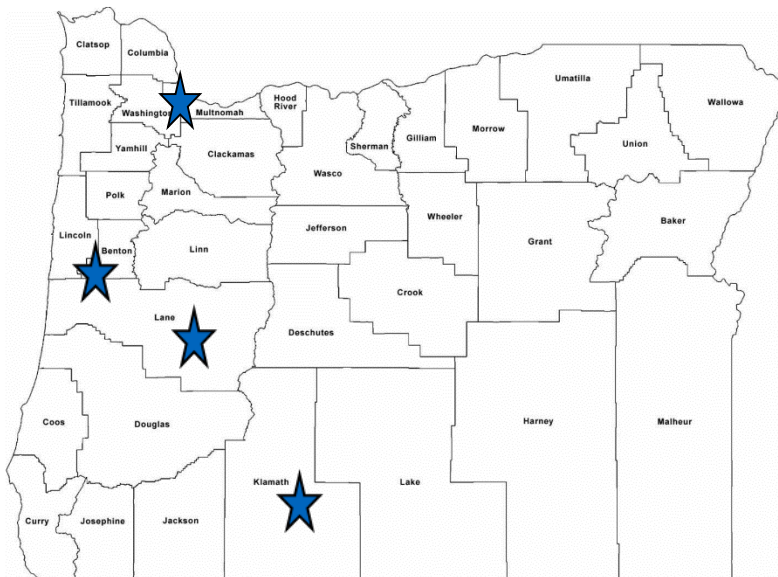
Why TRL?

- Enforce Tobacco 21 and other tobacco laws
- Decrease illegal tobacco sales to minors

TRL in Oregon

Jurisdictions Passed TRL

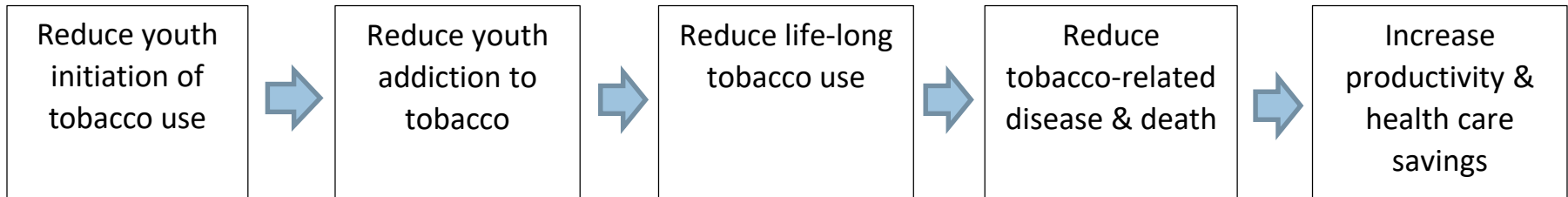
- Benton County
- Clackamas County
- Lane County
- Multnomah County



Lessons Learned

- Most effective county-wide
- License fee to cover education & enforcement
- Public Health Authorities are best positioned to implement TRL

Impact of TRL



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	Total	Reduction
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Labor income	\$204,899,969	-\$129,185

Summary / Conclusion

- TRL decreases sales of tobacco to minors
- TRL is needed to enforce Tobacco 21
- City councils support TRL
- TRL will not adversely effect businesses
- TRL is a best practice to reduce addiction to nicotine, chronic disease and tobacco-related death

THANK YOU!

RESOLUTION 1146

**A RESOLUTION SUPPORTING A CLACKAMAS COUNTY-WIDE
TOBACCO RETAIL LICENSE**

WHEREAS, Tobacco use remains the most preventable cause of illness and death in America and Clackamas County; and

WHEREAS, Nearly 90% of adult tobacco smokers started smoking before age 18, more than three quarters start before age 20. Adolescents who start smoking before their 19th birthday have on average a 20% higher risk of dying from smoking-related illness; and

WHEREAS, One in three youth said it would be “very easy” to get tobacco according to the Oregon Healthy Teen Survey and youth living in areas with the highest density of retail tobacco outlets are more likely to have smoked cigarettes in the last month; and

WHEREAS, Oregon increased the tobacco and nicotine product possession age to 21 but did not pass a state-wide tobacco retail license, the necessary mechanism to enforce the new legal sales age; and

WHEREAS, a county-wide licensing system for tobacco retailers is appropriate to enforce tobacco control laws to protect the health, safety, and welfare of our residents; and

WHEREAS, research demonstrates that local tobacco retail ordinances reduce youth access to cigarettes. A review of 33 California communities with strong tobacco retailer licensing ordinances shows that the youth sales rate declined in 31 of these communities after the ordinances were enacted, with an average decrease of 26 percent in the youth sales rate; and

WHEREAS, a requirement for a tobacco retailer license will not unduly burden businesses who sell or distribute tobacco or nicotine products.

NOW THEREFORE, the Gladstone City Council does hereby resolve to support the Clackamas County Board of County Commissioners as the Board of Health to adopt a tobacco retail license requiring all businesses located in the County to obtain an annual license to sell tobacco and other nicotine products, including electronic cigarettes.

Dated this 11TH day of SEP., 2018



Tamara Stempel, Mayor

ATTEST



Tami Bannick, City Recorder

COUNCIL RESOLUTION No. 72-2018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, IN SUPPORT OF A COUNTYWIDE TOBACCO RETAIL LICENSE (TRL).

WHEREAS, Tobacco use remains the most preventable cause of illness and death in America and Clackamas County; and

WHEREAS, nearly 90% of adult tobacco smokers started smoking before age 18, with more than three quarters starting before age 20, and adolescents who start smoking before their 19th birthday are more likely to die from smoking-related illness; and

WHEREAS, according to the Oregon Healthy Teen Survey, one in three youth said it would be "very easy" to get tobacco and youth living in areas with the highest density of retail tobacco outlets are more likely to have smoked cigarettes in the last month; and

WHEREAS, the State of Oregon increased the tobacco and nicotine product possession age to 21 but did not pass a state-wide tobacco retail license, the necessary mechanism to enforce the new legal sales age; and

WHEREAS, a county licensing system for tobacco retailers is appropriate to enforce tobacco control laws to protect the health, safety, and welfare of our residents; and

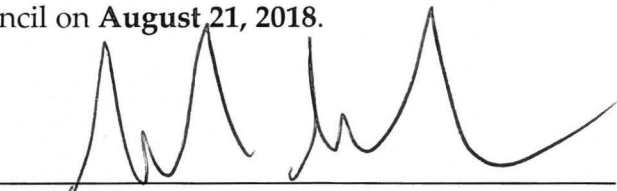
WHEREAS, research demonstrates that local tobacco retail ordinances reduce youth access to cigarettes, and a review of 33 California communities with strong tobacco retailer licensing ordinances showed that youth sales of tobacco declined in 31 of these communities after the ordinances were enacted; and

WHEREAS, a requirement for a tobacco retailer license will not unduly burden businesses who sell or distribute tobacco or nicotine products.

NOW THEREFORE, the City Council of the City of Milwaukie, Oregon, does hereby support the Clackamas County Board of Commissioners, as the Board of Health, plans to adopt a tobacco retail license that requires all businesses in the county to obtain an annual license to sell tobacco and other nicotine products, including electronic cigarettes.

Introduced and adopted by the City Council on **August 21, 2018.**

This resolution is effective immediately.



Mark Gamba, Mayor

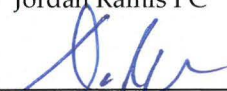
ATTEST:

APPROVED AS TO FORM:

Jordan Ramis PC



Scott Stauffer, City Recorder



City Attorney

RESOLUTION NO. 18-43

**A RESOLUTION SUPPORTING THE CLACKAMAS COUNTY-WIDE TOBACCO
RETAIL LICENSE**

WHEREAS, tobacco use remains the most preventable cause of illness and death in America and Clackamas County; and

WHEREAS, nearly 90% of adult tobacco smokers started smoking before age 18, more than three quarters start before age 20. Adolescents who start smoking before their 19th birthday have on average a 20% higher risk of dying from smoking-related illness; and

WHEREAS, one in three youth said it would be “very easy” to get tobacco according to the Oregon Healthy Teen Survey and youth living in areas with the highest density of retail tobacco outlets are more likely to have smoked cigarettes in the last month; and

WHEREAS, Oregon increased the tobacco and nicotine product possession age to 21 but did not pass a state-wide tobacco retail license, the necessary mechanism to enforce the new legal sales age; and

WHEREAS, a county-wide licensing system for tobacco retailers is appropriate to enforce tobacco control laws to protect the health, safety, and welfare of our residents; and

WHEREAS, research demonstrates that local tobacco retail ordinances reduce youth access to cigarettes. A review of 33 California communities with strong tobacco retailer licensing ordinances shows that the youth sales rate declined in 31 of these communities after the ordinances were enacted, with an average decrease of 26 percent in the youth sales rate; and

WHEREAS, a requirement for a tobacco retailer license will not unduly burden businesses who sell or distribute tobacco or nicotine products.

NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:

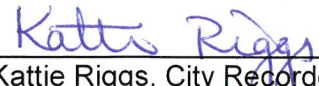
Section 1: The City Commission supports the Clackamas County Board of County Commissioners as the Board of Health to adopt a tobacco retail license requiring all businesses located in the County to obtain an annual license to sell tobacco and other nicotine products, including electronic cigarettes.

Approved and adopted at a regular meeting of the City Commission held on the 5th day of December 2018.



DAN HOLLADAY, Mayor

Attested to this 5th day of December 2018:



Katie Riggs, City Recorder

Approved as to legal sufficiency:



City Attorney

RESOLUTION NO. 2018-20

A RESOLUTION SUPPORTING A CLACKAMAS COUNTY-WIDE TOBACCO RETAIL LICENSE PROGRAM

WHEREAS, Tobacco use remains the most preventable cause of illness and death in America and Clackamas County; and

WHEREAS, Nearly 90% of adult tobacco smokers started smoking before age 18 and more than three quarters start before age 20; and

WHEREAS, Adolescents who start smoking before their 19th birthday have on average a 20 percent higher risk of dying from smoking-related illness; and

WHEREAS, One in three youth said it would be “very easy” to get tobacco according to the Oregon Healthy Teen Survey and youth living in areas with the highest density of retail tobacco outlets are more likely to have smoked cigarettes in the last month; and

WHEREAS, Oregon increased the tobacco and nicotine product possession age to 21 but did not pass a state-wide tobacco retail license, the necessary mechanism to enforce the new legal sales age; and

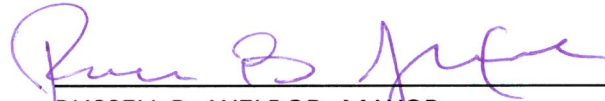
WHEREAS, a county-wide licensing system for tobacco retailers is appropriate to enforce tobacco control laws to protect the health, safety, and welfare of our residents; and

WHEREAS, research demonstrates that local tobacco retail ordinances reduce youth access to cigarettes. A review of 33 California communities with strong tobacco retailer licensing ordinances shows that the youth sales rate declined in 31 of these communities after the ordinances were enacted, with an average decrease of 26 percent in the youth sales rate; and

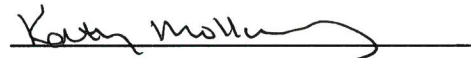
WHEREAS, a requirement for a tobacco retailer license will not unduly burden businesses who sell or distribute tobacco or nicotine products.

NOW, THEREFORE, the City of West Linn resolves to support the Clackamas County Board of County Commissioners as the Board of Health to adopt a tobacco retail license program requiring all businesses located in the County to obtain an annual license to sell tobacco and other nicotine products, including electronic cigarettes.

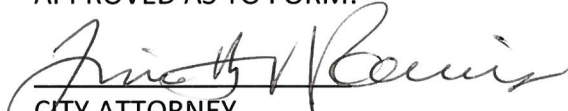
This resolution was PASSED and ADOPTED this 10th day of September, 2018, and takes effect upon passage.


RUSSELL B. AXELROD, MAYOR

ATTEST:


KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:


CITY ATTORNEY

November 6, 2018

To the Clackamas County Board of Health:

The City of Sandy writes to you in support of a county-wide tobacco retail licensing ordinance. As tobacco use remains the leading cause of illness and death in Clackamas County, the City of Sandy believes that a Tobacco Retail License (TRL) is an effective strategy to promote health and wellbeing of our youth by limiting their access to tobacco products in the retail environment.

We learned from the Clackamas County Public Health Division that one in four 11th graders in Clackamas County have used any form of tobacco; one in three youth said it would be “very easy” to get tobacco.

This is alarming because nicotine is a highly addictive powerful drug. Nearly 90% of adult tobacco smokers report starting before age 18. Adolescents who start smoking before their 19th birthday are more likely to die from smoking-related illness. Moreover, nicotine use during adolescence may have lasting negative consequences for brain development.

A countywide TRL requiring all businesses to obtain a license to sell tobacco and nicotine products is a necessary mechanism to enforce the minimum legal sales age and other tobacco laws. TRL would ensure that all retailers in the City of Sandy are equipped with the information and tools to keep tobacco and nicotine products out of the hands of our young people and to help protect them from a lifetime of addiction and poor health.

The Sandy City Council has directed me to write this letter that supports the Clackamas County Board of Commissioners, as the Board of Health, to adopt a county-wide TRL to protect the health of our community. We entrust the Public Health Division to implement the program in the City of Sandy.

Submitted on behalf of the Sandy City Council.

Respectfully,

Kim E. Yamashita

Kim E. Yamashita, City Manager



December 6, 2018

Dear Clackamas County Chair Commissioner Jim Bernard and Board of County Commissioners,

Oregon City Together is a local coalition of parents, youth, schools, law enforcement, past and current elected officials, faith-based organizations, government agencies and other organizations serving youth. The coalition's mission is to create healthy futures for Oregon City youth.

Our focus is primarily on preventing youth marijuana use and underage drinking. However, we have seen a huge jump in the use of e-cigarettes and vaping. According to the 2018 Oregon Healthy Teen Survey, 10 percent of 11th graders in the Oregon City School District said they had smoked a cigarette during the past 30 days. But three times as many (30.2) percent of 11th graders said they had used an e-cigarette, vape pen or e-hookah during the past 30 days.

Oregon's success in reducing the youth smoking rate is being eroded by the vaping trend. The Centers for Disease Control states that most e-cigarettes contain nicotine. Nicotine is highly addictive and can harm adolescent brain development. Young people who use e-cigarettes may be more likely to smoke cigarettes in the future.

Oregon works to stop illegal retail sales of alcohol and marijuana to youth. It would be useful to provide tools to improve monitoring and enforcement of illegal tobacco sales to youth as well, especially sales of e-cigarettes.

Sincerely,

A handwritten signature in cursive script that reads "Laura Poore".

Laura Poore
OCT Chair

SIGNATURE PAGE TO THE YOUTH SUBSTANCE USE PREVENTION GRANT AGREEMENT

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

SUBRECIPIENT

Oregon City Together
1417 12th Street
Oregon City, OR 97045

By: 
Laura Poore, Executive Director

Dated: 12/5/18

CLACKAMAS COUNTY

Commissioner Jim Bernard, Chair
Commissioner Sonya Fischer
Commissioner Ken Humberston
Commissioner Paul Savas
Commissioner Martha Schrader

Signing on behalf of the Board:

By: _____
Richard Swift, Director
Health, Housing & Human Services

Dated: _____

Approved to work plan and budget:

By: _____
Rodney A. Cook, Director
Children, Family & Community Connections Division

Dated: _____

- Exhibit A-1: Statement of Program Objectives
- Exhibit A-2: Performance Reporting Schedule and Work Plan Quarterly Report
- Exhibit A-3: Client Feedback Survey and Report
- Exhibit A-4: Demographic Report
- Exhibit B: Program Budget
- Exhibit C-1: Financial Report and Disbursement Request
- Exhibit C-2: Monthly Activity Report



OREGON PUBLIC HEALTH DIVISION
Health Promotion & Chronic Disease Prevention Section

Kate Brown, Governor

Oregon
Health
Authority

800 NE Oregon Street, Suite 730

Portland, OR 97232

Voice: (971) 673-0984

Fax: (971) 673-0994

TTY: (971) 673-0372

January 2, 2019

Jim Bernard, County Commissioner - Chair
Paul Savas, County Commissioner, Position 2
Martha Schrader, County Commissioner, Position 3
Ken Humberston, County Commissioner, Position 4
Sonya Fischer, County Commissioner, Position 5

Dear Commissioners:

On behalf of the Oregon Health Authority's Public Health Division, I am writing to express support for the proposed ordinance in Clackamas County to establish a license for the sale of tobacco products and inhalant delivery systems.

The Clackamas County Public Health Division and the Oregon Public Health Division have a long history of working together on proven tobacco control strategies. Since the inception of the Tobacco Prevention and Education Program in 1997, we've reduced cigarette consumption in Oregon by over 45%.¹ However, tobacco use is still the leading cause of preventable death in Oregon, causing nearly 8,000 deaths per year,² and e-cigarette use among 11th graders nearly tripled from 2013 to 2017.³ Both the Food and Drug Administration and the U.S. Surgeon General recently released statements on e-cigarettes, declaring their use an "epidemic" among youth, and urged action to protect the health of young people.

A sustainable tobacco retail licensing system establishes a standard fee and meaningful penalties, including suspension or revocation of a license for violations, that fully cover all program costs, including administration, inspection, education, and enforcement. An effective tobacco retail licensing system also allows jurisdictions to take further measures to protect the public. The tobacco industry is spending nearly \$116 million dollars to promote their products in Oregon's stores.⁴ Regulating the price, flavor, and location are all policies proven to reduce the significant health burdens and negative economic costs of tobacco.

I commend the Board of Health for considering tobacco retail licensing to protect Clackamas County residents from the severe health consequences of tobacco. The Oregon Health Authority is committed to supporting Clackamas County on this important issue and thanks you for your leadership in tobacco prevention.

Sincerely,

Karen Girard, MPA

Manager

Health Promotion and Chronic Disease Prevention Section

Public Health Division

Oregon Health Authority

¹ Orzechowski W and Walker RC. The tax burden on tobacco. Historical compilation Volume 52, 2017. Fairfax and Richmond, Virginia.

² Oregon Vital Statistics Annual Reports, Volume 2: Chapter 6. Mortality. Table 6-20. Available at:
<http://www.oregon.gov/oha/ph/BirthDeathCertificates/VitalStatistics/annualreports/Volume2/Pages/index.aspx>

³ Oregon Health Authority. Oregon Healthy Teens Survey (OHT). Unpublished data.

⁴ Campaign for Tobacco-Free Kids (CTFK). State-Specific Estimates of Tobacco Company Marketing Expenditures 1998-2016. Campaign for Tobacco-Free Kids webpage.
<https://www.tobaccofreekids.org/research/factsheets/pdf/0271.pdf>. Updated April 10, 2018. Accessed December 26, 2018.



1/3/2019

Jim Bernard, **County Commissioner - Chair**
Paul Savas, **County Commissioner, Position 2**
Martha Schrader, **County Commissioner, Position 3**
Ken Humberston, **County Commissioner, Position 4**
Sonya Fischer, **County Commissioner, Position 5**

Clackamas County Commissioners,

We are writing to you, as a partner of Clackamas County Public Health Division, working to ensure communities most impacted are engaged in efforts towards a county-wide Tobacco Retail License ordinance.

OHEA is a person of color led collaborative, organized to center and uplift the wisdom of our communities of color through racial justice informed health equity policies and practices as part of the movement to dismantle white supremacy and shift the imbalance of power. OHEA has been engaged in work around tobacco prevention and impacts in communities who face the greatest inequities since 2014. We have successfully worked in partnership with other counties to identify strategies for stronger, healthier communities that ensure all Oregonians have the ability to attain health, equitably.

Tobacco use disproportionately affects many communities of color. Statistics reveal that the communities most impacted by tobacco use are also the same communities burdened with other social, environmental, and physical burdens. For example, members of the LGBTQ community are more likely to experience other mental and physical health issues¹, those experiencing mental illness are less likely to have health insurance or other health supports², and people of color along with LGBTQ and mentally ill communities may experience chronic stress from discrimination in their daily life^{3,4,5}.

¹ Kelleher, C. Minority stress and health: Implications for lesbian, gay, bisexual, transgender, and questioning (LGBTQ) young people. *Counseling Psychology Quarterly* 22, 373–379 (2009).

² Schroeder, S. A. & Morris, C. D. Confronting a neglected epidemic: Tobacco cessation for persons with mental illnesses and substance abuse problems. *Annual Reviews of Public Health* 31, 297–314 (2010).

³ Purnell, J. Q. et al. Perceived discrimination, psychological distress, and current smoking status: Results from the Behavioral Risk Factor Surveillance System Reactions to Race Module, 2004-2008. *American Journal of Public Health* 102, 844–851 (2012).

⁴ Apollonio, D. E. & Malone, R. E. Marketing to marginalised: Tobacco industry targeting of the homeless and mentally ill. *Tobacco Control* 14, 409–415 (2005).

⁵ Williams, D. R., Neighbors, H. W. & Jackson, J. S. Racial/Ethnic discrimination and health: Findings from community studies. *American Journal of Public Health* 93, 200–208 (2003).

In the last year, e-cigarette use among high school students increased by 78%.⁶ According to the 2018 Student Wellness Survey, almost half of 11 graders said that it would be “very easy” to get E-cigarettes.⁷

Because the vast majority of adult smokers (95%) began smoking before age 21, Oregon raised the legal age to purchase tobacco to 21 in 2017. Tobacco retail licensing policy (TRL) has emerged as an effective strategy to reduce rates of tobacco sales to minors. The most effective licensing systems involve a sustainable funding source, such as an annual fee, to maintain the licensing program and include the option to suspend or revoke a license. With these elements in place, retailers are more likely to ask for identification, and sales to minors fall.⁸

Despite the average declining trend in tobacco use, some Oregonians are more affected by tobacco and nicotine addiction than others and need further support. The national Synar Program, sponsored by the Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, collects data from random inspections of retailers who sell tobacco to minors. The 2013 report indicated that Oregon was leading the nation in illegal sales to minors.⁹

In spite of the education students receive in school about the harm of tobacco, alcohol and other drugs, over 40 percent of 11 graders have used any form of tobacco in Clackamas County.¹⁰ *A comprehensive approach that includes policy that is led and driven by youth themselves, is necessary to prevent youth from regularly using substances such as tobacco.* A tobacco retail license would complement education by ensuring retailers do their part to keep tobacco and e-cigarettes out of the hands of adolescence and young adults.

OHEA is committed to ensuring out communities of color, youth, LGBTQIA2+ communities, low income communities and other communities who face the greatest health inequities are at the forefront of all of our policy decisions. This includes ensuring a health equity lens and framework is included in all tobacco prevention efforts, and that the voices of those most impacted are heard, valued and respected. Without this, we do not believe these efforts will yield the expected results.

Sincerely,
Dr. Zeenia Junkeer
Director, Oregon Health Equity Alliance (OHEA)



⁶ Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. *Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product among Middle and High School Students—United States, 2011-2018.* MMWR Morb Mortal Wkly Rep 2018;67:1276-1277.

⁷ Student Wellness Survey <https://oregon.pridesurveys.com/>

⁸ States and Municipalities with Laws Regulating Use of Electronic Cigarettes As of July 1, 2015. (American Nonsmokers’ Rights Foundation, 2015). at <<http://www.no-smoke.org/pdf/ecigslaws.pdf>>

⁹ 9. FFY 2013 Annual Synar Reports Tobacco Sales to Youth. (Substance Abuse and Mental Health Services Administration, 2013). at <<http://www.oregon.gov/oha/amh/datareports/Annual%20Synar%20Report%202012.pdf>>

¹⁰ Oregon Healthy Teen Survey

<https://www.oregon.gov/oha/PH/BIRTHDEATHCERTIFICATES/SURVEYS/OREGONHEALTHYTEENS/Pages/2017.aspx>



October 25, 2018

Jim Bernard, **County Commissioner - Chair**
Paul Savas, **County Commissioner, Position 2**
Martha Schrader, **County Commissioner, Position 3**
Ken Humberston, **County Commissioner, Position 4**
Sonya Fischer, **County Commissioner, Position 5**

Clackamas County Commissioners,

Established in 1996, the Preventing Tobacco Addiction Foundation works nationwide to reduce the deadly toll of smoking by advocating to raise the minimum legal sales age of tobacco products to 21 and supporting other proven tobacco control initiatives, including tobacco retailer licensing (“TRL”). Tobacco use is the leading preventable cause of morbidity and mortality in the United States, the state of Oregon, and Clackamas County and kills almost half a million people in the United States each year. Tobacco disproportionately impacts lower-income populations, communities of color, people living with mental illness, and the LGBTQI community, contributing to the persistence of health inequities among communities in Clackamas County. A TRL helps to address health disparities associated with tobacco use.

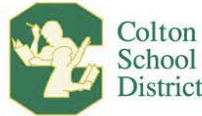
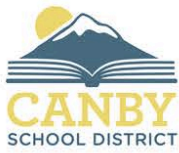
Through our work across the nation promoting and helping cities and counties implement Tobacco 21 laws, we know that enforcement of tobacco control policies is *critical* to policy success. TRL laws have proven effective in reducing illegal sales to underage youth. Requiring tobacco retailers to obtain a TRL enables cities and counties to collect a database of all retailers, provides a self-financing mechanism for best practices compliance checks, and gives the licensing authority the ultimate compliance lever (i.e. license suspension or revocation) for those few rogue retailers who refuse to comply with federal, state, or local tobacco control laws and continue to illegally profit from selling an addictive, deadly product to community youth. A TRL can also allow jurisdictions to limit where a license may be issued, i.e. restrictions on distance from schools and other youth-oriented facilities and density restrictions. A study out of Santa Clara County, CA reported licensing laws that restrict tobacco retailers from being located within 1000 feet of a school or 500 feet of another tobacco retailer can reduce tobacco outlets by 30%, reducing youth exposure and access to these products. Density restrictions help in high risk population areas, where retail density is often found the highest.

Leading the way, Oregon was one of the first states in the nation to pass a Tobacco 21 policy. However, Oregon communities need a mechanism to monitor compliance of and enforce the Tobacco 21 law and other tobacco control regulations. We understand that the Clackamas County Public Health Division is engaging stakeholders and gathering information to help the Commission consider adoption of a TRL program for your community. By allowing such exploration, Clackamas County clearly recognizes its duty to protect youth from addictive and deadly tobacco and nicotine products. We urge the Clackamas County Commission to adopt the strongest and most comprehensive tobacco retail license for your community.

Respectfully,

Ginny Chadwick
Western Regional Director
Preventing Tobacco Addiction Foundation

Katherine Ungar
Executive Director
Preventing Tobacco Addiction Foundation



November 29, 2018

To the Clackamas County Commissioners,

We are the superintendents representing all school districts in Clackamas County. As educators, we are deeply invested in the current and future success of our students. We write to you in support of a countywide tobacco retail license as a means to protect youth from developing an addiction to nicotine.

Adolescent brains are more sensitive to the rewarding properties of nicotine, making them especially vulnerable to addiction. Because adolescence is a critical period of growth and development, exposure to nicotine may have lasting, adverse consequences on brain development. ¹ The use of nicotine products during adolescence can significantly impact their ability to learn and their academic success.

The proliferation of e-cigarettes presents a new distraction for students across our districts. The discreet Juuls are being used throughout the school day and detract from the learning environment. According to the 2018 Oregon Student Wellness Survey, almost half of 11th graders said that it would be “very easy” to get e-cigarettes. ² As evidence, nearly three quarters of teen Juul owners nationwide said they obtained their Juul at a store. ³ A tobacco retail license is essential to enforce the minimum legal sales age and to prevent our kids from accessing and using these devices.

We recently learned from the Public Health Division staff that the influences of the tobacco industry are more concentrated in communities of low socioeconomic status. A countywide tobacco retail license would reduce access to tobacco, including e-cigarettes, for all students, regardless of the neighborhoods in which they live, learn, and play.

In spite of the education students receive in school about the dangers of tobacco, alcohol, and other drugs, more than 40% of 11th graders report using some form of tobacco. ⁴ Given the high propensity of students to join their peers in risk taking behaviors, a comprehensive approach that includes policy is necessary to prevent youth from experimenting with substances. A tobacco retail license would complement education by ensuring retailers do their part to keep tobacco and e-cigarettes out of the hands of adolescents and young adults.

As a society, we have a responsibility to provide a healthy environment for our youth to thrive. We urge you to adopt a tobacco retail license ordinance in Clackamas County to protect our youth, support their academic success, and their futures.

Sincerely,

Clackamas County Superintendents

¹ Institute of Medicine, *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*, Washington, DC: The National Academies Press, 2015

http://www.iom.edu/~media/files/report%20files/2015/TobaccoMinAge/tobacco_minimum_age_report_brief.pdf

² Student Wellness Survey <https://oregon.pridesurveys.com/>

³ The Truth Initiative <http://www.truthinitiative.org/news/where-are-kids-getting-juul>

⁴ Oregon Healthy Teen Survey

<https://www.oregon.gov/oha/PH/BIRTHDEATHCERTIFICATES/SURVEYS/OREGONHEALTHYTEENS/Pages/2017.aspx>





December 28th, 2018

Dear Clackamas County Chair Commissioner Jim Bernard and Board of County Commissioners,

Vibrant Future Coalition is a local group comprised of youth, parents, teachers, faith organizations, concerned community members, law enforcement and healthcare professionals, among other youth-serving agencies. Our mission is to work together with the North Clackamas community to educate and to reduce underage drinking, marijuana and prescription drug abuse amongst our youth. We are writing to educate you on the potential outcomes of a county-wide Tobacco Retail License ordinance, as tobacco use directly relates to the health and well-being of youth in the community and connects directly to our substance use prevention efforts.

In 2017, Oregon became the 5th state in the country to raise the smoking age to 21. Although this legislation went into effect at the beginning of this year, the county is still encountering high rates of youth, under the age of 21, having easy access to cigarettes and e-cigarette devices.

According to the 2018 Oregon Student Wellness Survey, 67.5% of 11th grade students in the North Clackamas School District reported that it would be either *sort of easy* or *very easy* to get some e-cigarettes, vape-pens, or e-hookahs. The average age of onset for smoking a whole cigarette was 13.7 years old, while trying an e-cigarette, vape-pen or e-hookah was 14.9 years old.

While the state successfully passed legislation to increase the legal smoking age to 21, there are currently no steps to hold retailers accountable. Clackamas County would lead the state, as one of the first to pass a county-wide Tobacco Retail License, among only 4 others. Additionally, Oregon is 1 of the 9 states that do not have state-wide Tobacco Retail Ordinances, to ensure all retailers in the county are compliant with tobacco-related laws.

Lastly, I wanted to take the time to thank you for all the work you do to keep Clackamas County a healthy and thriving community. We are lucky to have a dedicated and thoughtful board of county commissioners that is committed to the health and well-being of the community.

Sincerely,

A handwritten signature in black ink that reads "Ellen Velez". The signature is written in a cursive, flowing style.

Ellen Velez
Prevention & Policy Coordinator
Vibrant Future Coalition

Tobacco Retail Licensing Engagement Summary

	Group	Date of Presentation	Response
Cities	City Managers	May 7, 2018	Move forward with presentations to cities
	Sandy City Council	July 2, 2018	Letter of support
	West Linn City Council	July 16, 2018	Signed resolution
	Happy Valley City Council	July 17, 2018	Pending
	Estacada City Council	July 23, 2018	Does not support fees
	Molalla City Council	July 25, 2018	Does not support
	Canby City Council	August 1, 2018	No position
	Wilsonville City Council	August 6, 2018	Pending
	Milwaukie City Council	August 7, 2018	Signed resolution
	Gladstone City Council	August 14, 2019	Signed resolution
	Oregon City Commission	November 8, 2018	Signed resolution
	Lake Oswego	Emails exchanged September-October	Pending
	Tualatin	Email exchange in September	No retailers in Clackamas County
	Rivergrove	Email exchange in September	Declined presentation, no retailers in city
	Johnson City	Email exchange in September	Declined presentation, no retailers in city
	Barlow	Emails sent in September	No response No retailers in city
Community Leaders	October 15, 2018	Pending	
Chambers of Commerce	North Clackamas Chamber of Commerce	September 10, 2018	Pending
	Clackamas County Business Alliance	September 19, 2018	Pending
	Lake Oswego Chamber of Commerce	October 11, 2018	Pending
	Tualatin Chamber of Commerce	October 15, 2018	Pending
	Sandy Chamber of Commerce	October 17, 2018	Pending
Schools & Students	Superintendents meeting	November 14, 2018	Letter of support
	Providence Rebels for a Cause	Ongoing	Support
Community Coalitions	Public Health Advisory Committee	November 5, 2018	Support
	Clackamas County Prevention Coalition	November 28 & December 19, 2018	Members committed to letters of support
	Oregon Partners for Tobacco Prevention	Ongoing, November-December	Members committed to letters of support
	Vibrant Future Coalition Macro-Committee	December 20, 2018	Letter of support
Tobacco Retailers	Letter mailed to retailers	November 1	One phone call One letter
	Online Survey	November 1-30	2 responses in opposition
	Listening Session I: Sandy	November 20, 2018	No response
	Postcard mailed to retailers	November 22, 2018	One phone call
	Listening Session II: Oregon City	November 27, 2018	4 people participated
Board of County Commissioners	Policy Session	January 30, 2018	Directed Public Health to move forward with community engagement
	Policy Session	October 2, 2018	Directed Public Health to engage Retailers
	Policy Session	January 8, 2019	TBD

Tobacco Retail Licensing: Frequently Asked Questions



Tobacco Retail Licensing requires all businesses in the county, including large retailers, convenience stores, gas stations, pharmacies and bars, to purchase an annual license to sell tobacco and nicotine products, including E-cigarettes.

Tobacco Retail Licensing is part of Clackamas County's comprehensive strategy to prevent youth from using nicotine products and end the burden of tobacco-related disease and death.

What does Tobacco Retail Licensing propose to do?

Tobacco Retail Licensing is a tool used to improve enforcement of federal, state, and local tobacco laws. It enables local jurisdictions to identify tobacco retailers, monitor their compliance with laws and enforce penalties if tobacco is sold to people under the age of 21. It provides a platform for retailer education and consequences if tobacco is sold illegally. Penalties, such as fines or suspending retailers' ability to sell tobacco, deter retailers from selling tobacco to youth.

Why focus on tobacco regulation in the retail environment?

Youth who have more opportunities to obtain tobacco and see more tobacco advertising are more likely to use tobacco and nicotine products due to their susceptibility to marketing. Studies show that density of tobacco retailers and proximity of retailers to schools impacts youth tobacco rates. Increased tobacco retailer density is linked to experimental smoking among youth.

Why are electronic cigarettes and other vaping products included in this licensing?

Many youth today are being introduced to nicotine through e-cigarettes rather than conventional cigarettes and tobacco products. A 2015 survey found that among e-cigarette users aged 19-24, 40% had never been regular cigarette smokers. Juul is a brand of e-cigarettes that has skyrocketed in popularity among teens, commanding over half the e-cigarette market.

How effective is Tobacco Retail Licensing in reducing youth access to tobacco?

Tobacco Retail Licensing reduces illegal sales to minors through retailer education and enforcement of laws. Communities across the country, including four counties and a number of cities within Oregon, are implementing Tobacco Retail Licensing to prevent youth from illegally purchasing nicotine products. While it is too soon to see the results in Oregon, a recent assessment of 33 communities in California that implemented a tobacco retail license, showed dramatically decreased rates of illegal youth sales.

What is the economic impact of Tobacco Retail Licensing?

Portland State University's Northwest Economic Research Center determined that a license fee of \$500 – \$600 would not have a significant effect on the Clackamas County economy. A \$500 – \$600 fee amounts to \$1.37 – \$1.64 per day to sell tobacco and nicotine products. The impact on store revenue would be minimal, as retailers are able to raise tobacco prices to offset the cost of the license.

A private employer may pay over \$5816 annually to employ an individual who smokes tobacco compared to a non-smoking employee. Preventing youth access to tobacco through Tobacco Retail Licensing would result in a healthier future workforce.

What does Tobacco Retail Licensing mean for cities?

Tobacco Retail Licensing will reduce youth access and initiation to tobacco and nicotine products, protecting them from a lifetime of addiction and tobacco-related disease. This will ultimately improve quality of life, increased productivity and health care savings. Allocating responsibility to the Board of Health to pass Tobacco Retail Licensing shifts the administration and implementation to Clackamas County Public Health Division, resulting in consistent education and enforcement county-wide.

“Among e-cigarette users aged 19-24, 40% had never been regular cigarette smokers.”

57 McCarthy, W. J., Mistry, R., Lu, Y., Patel, M., Zheng, H., & Dietsch, B. (2009). Density of Tobacco Retailers Near Schools: Effects on Tobacco Use Among Students. *American Journal of Public Health*, 99, 2006-2013. doi: 10.2105/AJPH.2008.145128

Henriksen, L., Feighery, E. C., Schleicher, N. C., Cowling, D. W., Kline, R. S., & Fortmann, S. P. (2008). Is adolescent smoking related to the density and proximity of tobacco outlets and retail cigarette advertising near schools? *Preventative Medicine*, 47, 210-214.

E-Cigarette Fact Sheet, Oregon Health Authority, 2016. http://www.co.lincoln.or.us/sites/default/files/fileattachments/health_amp_human_services/page/585/e-cigfactsheet.pdf

MMWR via Centers for Disease Control and Prevention, https://www.cdc.gov/tobacco/basic_information/e-cigarettes/index.htm

See “Table of youth sales rates before and after the adoption of a strong tobacco retailer licensing ordinance”. The American Lung Association in California, 2013. <http://center4tobaccopolicy.org/wp-content/uploads/2016/10/Tobacco-Retailer-Licensing-is-Effective-September-2013.pdf>

vi Berman, M. et al; “Estimating the Cost of a Smoking Employee”, *Tobacco Control*, 2013. <https://tobaccocontrol.bmj.com/content/23/5/428>

October 31, 2018

Dear Clackamas County Retailer,

In January 2018, the State of Oregon raised the minimum legal sales age for tobacco products from 18 to 21 years of age. This law also amended the definition of “tobacco products” to include “a device that can be used to deliver tobacco”, which includes but is not limited to: e-cigarettes, e-liquids (nicotine and non-nicotine liquid), hookah, vape pen, tanks, etc.

The vast majority of tobacco users started before the age of 20. The earlier youth start using tobacco, the more likely they are to become addicted.

We learned from the Oregon Health Authority that one in three Clackamas County 11th graders said that it would be “very easy” to access to tobacco products (2017 Oregon Healthy Teen survey). This is alarming because nicotine is a highly addictive, powerful drug and may have a lasting negative impact on teens’ developing brains.

Raising the sale age of tobacco products to 21 is part of a comprehensive strategy to prevent children and young adults from developing a lifelong addiction to nicotine. The Clackamas Board of County Commissioners is considering a Tobacco Retail License to support compliance with the minimum legal sales age, prevent youth from using nicotine and address the leading cause of death in Clackamas County.

Tobacco Retail Licensing has effectively reduced youth access to tobacco products in communities across the country. Because Oregon does not have a state-wide Tobacco Retail License, counties are passing it locally. It would require all businesses that sell tobacco products, including e-cigarettes, to purchase a license. Tobacco Retail Licensing would include education to help retailers comply with tobacco-related laws and keep our youth safe.

Enclosed in this letter is a summary of the economic impact of Tobacco Retail Licensing and responses to frequently asked questions. If you would like to learn more about Tobacco Retail Licensing or provide feedback on the proposed ordinance, visit <https://www.clackamas.us/publichealth/trl.html>

Healthy Families. Strong Communities.

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www.clackamas.us/publichealth

You may also provide feedback at one of the following listening sessions with public health staff:

Tuesday November 20, 2018

9:00 – 10:30 a.m.

Sandy Senior Center Auditorium
38348 Pioneer Blvd, Sandy

Tuesday November 27, 2018

6:30 – 8:00 p.m.

Providence Willamette Falls Community Center
519 15th Street, Oregon City

Feedback gathered from the survey and listening sessions will be shared with the Board of County Commissioners.

Thank you for your time. Clackamas County appreciates your contribution to healthy and safe communities.

Sincerely,



Dawn Emerick, Ed.D.

Director, Public Health Division, Clackamas County

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**What do you think about a
Tobacco Retail License?
Come share your thoughts!**

Join us in person:

Tuesday, November 27

6:30 p.m. to 8 p.m.

Providence Willamette Falls

Community Center

519 15th St., Oregon City

Interpretation services will
be available.

**You can also send us feedback
by visiting [www.clackamas.us/
publichealth/trl.html](http://www.clackamas.us/publichealth/trl.html)**

WE WANT YOUR FEEDBACK

www.clackamas.us/publichealth/trl.html





Lauren MacNeill
Director

RESOLUTION SERVICES
Public Services Building
2051 Kaen Road, #210 / Oregon City, OR 97045

TOBACCO RETAIL LICENSING RETAILERS LISTENING SESSIONS
NOVEMBER 20 AND 27, 2018

Facilitators Report
Prepared by Erin Ruff

Resolution Services provided neutral facilitation of listening sessions for retailers of tobacco and nicotine products. As the intent of this session was to receive feedback from retailers, I asked Public Health staff to limit themselves to responding to questions. This report provides a summary of the concerns and issues raised by the retailers. Public Health staff will respond in other documents or testimony.

PRIORITY CONCERNS

Licensing will have a significant and disproportionate impact on small, locally owned businesses and on businesses that are already diligently not selling to minors.

- Retailers that consistently pass decoy operations would bear the same annual licensing burden as retailers with multiple violations. Noncompliant retailers are benefiting both from the revenue of selling to minors and the structure of the licensing fee.
- Small retailers who follow the law have already seen significant income decrease after the age raised from 18 to 21. Retailers who exclusively sell tobacco products reported a 30% reduction in revenue, which required them to lay off staff.
- Tobacco manufacturers offer discounts on product for high-volume retailers. Low-volume retailers are already paying more for product and would pay equal fees under this system.

Law enforcement is not effectively enforcing existing age restrictions.

- Youth who obtain and use tobacco and nicotine products are not being charged for law violations by law enforcement. The disincentive intended by the current law has not effectively changed youth decision making. This licensing fee holds business owners responsible while law enforcement does not hold youth responsible.
- The existing state laws and enforcement mechanisms have not significantly reduced underage use of tobacco and nicotine, this licensing structure does not demonstrate that it will lead to better results.

Creating and changing law and policy does not effectively change behaviors

- Enacting new laws and licensing structures like this creates new burdens for already law-abiding citizens and businesses but do not create a paradigm shift in the thinking of those who are already in violation of existing laws.

Retailers should not bear the financial burden of a public health effort targeted and changing teen decision-making. Schools are far more influential and efforts focused there would have better results and better outcomes for local economies.

- Youth have outsmarted every system restricting their access to harmful and addictive substances so far, and they will find a way to outsmart this system. Retailers who are already not selling tobacco and nicotine products to minors will see increased costs, and minors will continue to find ways to get the products from another store, from another county, or from an adult purchaser.
- Retailers do not have influence over use decisions of minors. It would be more effective for public health advocates to put resources into supporting parents and schools to educate youth about tobacco use as schools are much more influential on youth than retailers.

OTHER CONCERNS RAISED

- The structure of this fee would require co-located businesses to obtain multiple licences. This is a significant issue in rural areas where co-located businesses have much lower volume.
- Business owners do not believe that they can effectively raise prices to offset the licensing fee because their larger-volume competitors, who also receive volume discounts and other incentives that small retailers do not, will not similarly raise prices.
- Retailers report parents buying tobacco for their children (and they also report refusing to sell to parents when that is obvious to them). If parents are supporting their children's unhealthy choices, no amount of retailer education paid by the cost of licensing will realistically achieve public health goals of reduced youth use and addiction.

OTHER ISSUES NOT FULLY EXPLORED

As I said above, this was a listening session for retailers, not a debate, and Public Health staff agreed to limit their input to responding to questions. During the conversation, there were times that I thought that exploring the pros and cons of issues might yield valuable information for the Board. Those are outlined below, with an attempt to represent both Public Health staff and retailers with accuracy and respect.

Is the cost to small businesses worth the expected results?

Public Health Staff:

Public Health staff acknowledge that licensing will not prevent 100% of youth from accessing tobacco and nicotine products, and that youth who are determined to use these products will continue to find ways to obtain them. They emphasize data from other communities

which supports that licensing, as a tool, effectively reduces illegal sales to minors, which correlates to reduced youth use, which correlates to improved public health in both the short and long term.

Retailers

Retailers described that this licensing fee, combined with all the other costs of doing business, would have a significant financial impact on many small, locally owned businesses that will not be recoverable through raised prices. They believe that youth who choose to use tobacco and nicotine will get it if they want it by going to a business willing to risk the license and law violation, by going to another county, or by having an adult friend or family member purchase for them.

Is the impact of charging a standard license fee for both (1) high volume large businesses and low volume small business and (2) compliant businesses and offending businesses an economically appropriate policy?

Public Health Staff

The amount of the fee is designed to cover the costs of effective administration and enforcement. A flat fee is easiest to administer and less time and paperwork burden on retailers. Tiered fee structures have been challenged in court in other states.

Retailers

The margins of small, locally-owned businesses are much narrower than large, national corporations. High volume corporations are offered both product discounts and incentives for which low-volume small business are not eligible. Retailers believe that large corporations will not reduce prices to cover the cost of the licensing fee, which means small businesses will also not be able to raise prices in order to remain competitive. Small compliant retailers are already facing significant reduced income from sales to 18 – 21 year olds, whereas noncompliant businesses profit from sales to minors easily offsets licensing and enforcement fees.

Public Health Response to Retailers' Concerns about Tobacco Retail License

Licensing will have a significant and disproportionate impact on small, locally owned businesses and on businesses that are already diligently not selling to minors.

- Clackamas County Public Health Division (CCPHD) is grateful for tobacco retailers who responsibly operate their businesses and comply with current tobacco control laws. Unfortunately, fourteen percent (11/79) of retailers in Clackamas County illegally sold tobacco to minors during the inspections conducted by the Oregon Health Authority between November 2017 and March 2018.¹ If tobacco retail licensing is adopted, Clackamas County Public Health Division would be able to follow-up on complaints received of retailers not complying with tobacco-related laws. Businesses in violation of laws would face penalties to be determined by a Rules Advisory Committee.
- An annual license fee of \$500 - \$600 amounts to \$1.37 and \$1.64 per day to sell tobacco and nicotine products. Smaller retailers could raise the price of a pack of cigarettes by \$.12 to offset the cost of the license fee, minimizing the impact of a TRL on store revenue.²

Law enforcement is not effectively enforcing existing age restrictions.

- The *Oregon Health Authority* contracts with the *Oregon State Police Drug Enforcement Section* to conduct unannounced inspections to test retailers' compliance with minimum legal sales age of tobacco products. Due to the State's limited capacity, only a small random sample of retailers are inspected each year. Inspections do not include education, and enforcement for violations is inconsistent.
- A county-wide tobacco retail license would offer consistent and equitable enforcement and inspections for all retailers, augmenting the State's current inspection strategy by visiting every tobacco retailer annually.
- A strong enforcement strategy with graduated penalties for repeated violations is an essential element of an effective tobacco retail license. The threat of a suspended license to sell tobacco motivates retailers to comply with tobacco control laws.

Creating and changing law and policy does not effectively change behaviors.

- Knowing something is bad for us is not often enough to deter behaviors. Despite the education that students receive in school about the harm of tobacco, over 40% of 11th graders have used any form of tobacco.³
Policy does impact behavior change. A recent assessment of 33 communities in California that implemented a tobacco retail license showed dramatic decreased rates of illegal youth sales.⁴

Retailers should not bear the financial burden of a public health effort targeted and changing teen decision-making. Schools are far more influential and efforts focused there would have better results and better outcomes for local economies.

¹ Oregon Tobacco Retail Enforcement Inspection Results 2017 – 2018.

<https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/TOBACCOPREVENTION/Pages/retailcompliance.aspx#inspections>

² Upstream Public Health, Health Equity Impact Analysis

³ Oregon Healthy Teens 2017

https://www.oregon.gov/oha/PH/BIRTHDEATHCERTIFICATES/SURVEYS/OREGONHEALTHYTEENS/Documents/2017/County/03_Clackamas.pdf

⁴ American Lung Association. (2013). Tobacco retailer licensing is effective. Accessed at <http://center4tobaccopolicy.org/wp-content/uploads/2016/10/Tobacco-Retailer-Licensing-is-Effective-September2013.pdf>

- In spite of the education students receive in school about the dangers of tobacco, alcohol, and other drugs, more than 40% of 11th graders report using some form of tobacco.⁵ Given the high propensity of students to join their peers in risking taking behaviors, a comprehensive approach that includes policy is necessary to prevent youth from experimenting with substances. A tobacco retail license would complement education by ensuring retailers do their part to keep tobacco and e-cigarettes out of the hands of adolescents.
- Studies show that density of tobacco retailers and proximity of retailers to schools impacts youth tobacco rates. The prevalence of smoking is higher at schools with five or more retailers within the area.⁶ Ensuring that current tobacco laws are being followed is a decision that supports the vitality of Clackamas County.

The structure of the fee would require co-located businesses to obtain multiple licenses. This is a significant issue in rural areas where co-located businesses have much lower sales volume.

- This feedback is valuable and something to consider in developing the rules. A strategy to consider for retailers who have a lower volume of tobacco sales is identifying healthy items to add to store inventories that would be more desirable and profitable than tobacco.

Business owners do not believe they can effectively raise prices to offset the licensing fee because their larger-volume competitors, who also receive volume discounts and other incentives that small retailers do not, will not similarly raise prices.

- Clackamas County Public Health Division acknowledges the challenges small retailers face with large chain stores. The Rules Advisory Committee can explore strategies to equitably address these challenges while supporting a fully funded Tobacco Retail License program.

Retailers report parents buying tobacco for their children.

- Tobacco Retail Licensing will not prevent all minors from accessing tobacco and nicotine products when supplied to them by adults over the age of 21. It does, however, support healthy environments by enforcing all tobacco control laws such as prohibiting sales of single cigarettes.

Is the cost to small businesses worth the expected results?

- The American Lung Association Center for Tobacco Policy and Organizing studied the effects of a strong TRL ordinance in 33 California communities in 2013. They found significant decreases in illegal sales to minors in nearly every community; 14 communities saw decreases of 30% or more in the time since a strong tobacco retail licensing ordinance was adopted.⁷ Tobacco retail licensing is a mechanism to reduce youth access to tobacco and nicotine products by enforcing age restrictions on the purchase of tobacco and nicotine products.⁸
- The Economic Impact study done by NERC demonstrated that the financial impact of Tobacco Retail Licensing amounts to about \$1.50 per day. A separate Health Equity Impact Analysis estimated in 2015 that a small retailer could raise the price of a pack of cigarettes by \$0.12 to offset the cost of a \$500 license.

⁵ Oregon Healthy Teen Survey 2017

⁶ McCarthy, W.J.; Mistry, R., Lu, Y., Patel, M., Zheng, H., & Dietsch, B. (2009). Density of Tobacco Retailers Near Schools: Effects of Tobacco Use Among Students. *American Journal of Public Health*, 99, 2006-2013. doi:10.2105/AJPH.2008.145128

⁷ The Center for Tobacco Policy & Organizing. Tobacco Retailer Licensing is Effective. 2013. <http://center4tobaccopolicy.org/wp-content/uploads/2016/10/Tobacco-Retailer-Licensing-is-Effective-September-2013.pdf>

⁸ The Center for Tobacco Policy & Organizing. Reducing Youth Access to Electronic Cigarettes through Tobacco Retailer Licensing. 2015. <http://center4tobaccopolicy.org/wp-content/uploads/2016/11/E-cigarettes-in-TRL-April-2015.pdf>.

- Tobacco Retail Licensing is a recommended and standard practice throughout the United States. Oregon is one of 9 states in the nation that does not have this licensing implemented. Four counties in Oregon have a current tobacco retail licensing policy in place, with many other counties working on implementing similar ordinances. Multnomah and Klamath counties are examples of county-wide policies that have engaged all retailers. As e-cigarette use has become epidemic among youth, it is necessary for Clackamas County to take measures to protect our population.

Is the impact of charging a standard license fee for both (1) high volume large businesses and low volume small businesses and (2) compliant businesses and offending businesses an economically appropriate policy?

- All businesses and communities, large and small will benefit from a Tobacco Retail License. Tobacco remains the number one cause of preventable death in the nation and in Clackamas County. Employee's tobacco use decreases productivity and increases employers' costs. Business communities across the country are addressing this challenge by working with public health to develop and promote tobacco policies that support a healthy future workforce and prosperous communities.
- In order for Tobacco Retail Licensing to be effectively enforced, the licensing fee must cover the cost of administration, education and enforcement. All businesses, regardless of size, will receive the same level of service from Public Health. A flat fee alleviates the administrative burden from businesses to report revenue from tobacco sales.

City Councils' Questions RE: Tobacco Retail Licensing & Responses from Clackamas County Public Health Division

City councils raised the following questions when Clackamas County Public Health Division presented Tobacco Retail Licensing, proposal to prevent youth from accessing tobacco and nicotine products. This summary is to help ensure that jurisdictions receive the same information about Tobacco Retail Licensing.

How many new employees will the County have to hire to operate Tobacco Retail Licensing?

The Public Health Division would hire one Program Coordinator for a Tobacco Retail License Program.

What is the proposed enforcement strategy? How would it be different than current enforcement? What are the current penalties for illegal sales? What is the role of local law enforcement?

Proposed enforcement would include two inspections per year for every business selling tobacco and nicotine products. One would be with Public Health staff to help retailers understand and comply with laws; the other would use minor decoys to ensure retailers do not sell to people under 21 years of age. Clackamas County Public Health Division would provide the education and operate the compliance checks with youth.

Currently, the Oregon Health Authority enforces the tobacco minimum sales age law and coordinates with the Oregon State Police to conduct compliance inspections. A clerk may be cited for Endangering the Welfare of a Minor if caught selling tobacco or nicotine products (e-cigarettes) to a person under 21 years. Minimum fine of \$200, maximum of \$2000. Due to the State's limited capacity and resources, a random sample of retailers are inspected. A TRL in Clackamas County would augment the state's system so that every tobacco retailer is inspected annually.

Local law enforcement is able to issue citations for "Endangering the welfare of a minor" ORS 163.575 to store owners for illegal sales. Class A violation, minimum fine for each violation is \$100.

What is the Board of Health's authority to pass a county-wide TRL? What do cities have to do to support TRL?

The County as the Local Public Health Authority, has broad authority under state law (ORS 431A.010 and ORS 431.413) to adopt and implement public health programs to protect the public health and safety. Cities should follow their own governing processes if a city wishes to support TRL in their city, for example, by resolution or an IGA with the County.

Based on the experiences of other counties in Oregon that have implemented TRL, what impact has TRL had on illegal sales to youth?

Multnomah and Klamath Counties have not had TRL in place long enough to measure change in underage sales. The license fees in Benton & Lane Counties are not high enough to support compliance checks.

A recent assessment of 33 communities in California that implemented a tobacco retail license showed dramatic decreases in illegal sales to youth since passing TRL.

Why are bars and adult venues required to have a license to sell tobacco if youth under 21 years are not permitted on the premise?

While youth are legally not allowed into bars and adult venues, they occasionally manage to skirt the system to enter. The tobacco retail license enables CCPHD to provide compliance checks as well as help retailers know and understand tobacco retail laws.

Oregon law preempts any local jurisdiction from regulating vending machines. So if a bar / adult venue has only a vending machine, CCPHD cannot require them to get a tobacco retail license. Oregon Revised Statutes §167.404 Cities and counties by ordinance or resolution may not regulate vending machines that dispense tobacco products or inhalant delivery systems. [1991 c.970 §3; 2015 c.158 §10

What is the fee for a liquor license and how does it compare to the fee proposed for TRL?

The liquor license fee ranges from \$100 for Distilleries to \$500 for Breweries. The fee for a full on-site commercial sale is \$400. A list of licensing types and fees is available online

<https://www.oregon.gov/olcc/LIC/Pages/index.aspx>

We are proposing a licensing fee of \$500-\$600 annually. This amount is necessary to provide adequate education and enforcement to the 232 known tobacco retailers in Clackamas County.

How does the enforcement for underage liquor sales compare to enforcement for underage tobacco sales?

The OLCC is responsible for ensuring compliance with liquor laws. One way of doing so is through minor decoy operations to ensure retailers do not sell or serve alcohol to people under 21 years. The OLCC is under staffed to adequately ensure compliance with State liquor laws. Their capacity has been further stressed since the legalization of marijuana as they are responsible for ensuring compliance with marijuana laws as well. For example, the last inspection in Estacada was to one business in 2015. The OLCC posts inspection results on their website https://www.oregon.gov/olcc/Pages/reg_program_overview.aspx

For businesses licensed by the OLCC, the penalty for failing to verify the age of a minor (category III offense) is a 10 day suspension of license or \$1650. The second offense is a 30 day suspension or \$4950. A summary of common violations and penalties is available here

https://www.oregon.gov/OLCC/pages/laws_and_rules.aspx#Penalty_Schedule/Sanction_Schedule

If adopted, a Tobacco Retail License would include two inspections per year for every business selling tobacco & nicotine products. One inspection with a Public Health staff to help retailers understand and comply with tobacco-related laws and the other using minor decoys to ensure retailers do not sell to people under 21 years.

Penalties for selling tobacco to people under 21 years would be determined with the guidance of a Rules Advisory Committee. Currently under the state’s inspections, clerks may be cited for Endangering the Welfare of a Minor. Minimum fine of \$200, maximum fine of \$2000.

What is the argument against TRL? Is there anything negative to approving TRL?

It’s no surprise that the tobacco industry opposes TRL. Their revenue relies on young people developing a life-long addiction to tobacco and nicotine products.

If the Board of County Commissioners, acting as the Board of Health, adopts a county-wide Tobacco Retail License, Clackamas County Public Health Division (CCPHD) will be directed to administer and implement the program. Shifting responsibility to CCPHD will result in consistent education and enforcement and will equitably prevent all youth in the county from developing an addiction to nicotine.

Will a small mom and pop store get charged the same as a larger entity such as Fred Meyer or Winco? Can the fee be sliding based on the retailer size or amount of sales?

A flat fee of \$500 - \$600 is based on the cost to administer the license, educate retailers and conduct inspections with the 232 known retailers in the county. The total cost of the program will be divided among all retailers. Every retailer, regardless of the size, will receive the same level of service in order to comply with laws governing sale of tobacco and nicotine products.

The licensing fee must be set no higher than the actual costs incurred by the government to operate the program. We have learned from other jurisdictions that a tiered based fee structure has been challenged in court.

In 2009, the New York State Legislature adopted legislation to replace the licensing fee of \$100/year with a graduated fee of between \$1,000 and \$5,000/year, depending on the volume of sales by a retailer. The amount of the proposed new fee was not based on any precise calculation of program costs. A trade association filed a lawsuit alleging that the fee increase was an unconstitutional tax, and the appellate court issued an order allowing the retailers to pay the \$100 fee until the court decided the case. The lawsuit was ultimately dismissed when the State Legislature adopted legislation to impose a flat licensing fee of \$300/year.

Long Island Gasoline Retailers Ass'n v. Paterson, 83 A.D.3d 913 (App. Div. 2011). Case summarized by ChangeLab Solutions, Tobacco Retailer Licensing Playbook | changelabsolutions.org/tobacco-control

A flat fee is easiest to administer and less burden to retailers. A tiered fee would require retailers to prepare documentation of profit that would need to be reviewed prior to any license or renewal.

There are options for retailers to recoup the cost of a TRL. A \$500 - \$600 fee amounts to \$1.37 - \$1.64 per day to sell tobacco products. The impact on store revenue would be minimal as retailers are able to raise tobacco prices and/or adjust the prices of other store items to offset the cost of the license fee.

Why can't Department of Revenue records be used to identify retailers?

In Oregon, tobacco taxes are levied at the distributor or wholesaler level, rather than at the retail level. Some retailers, like Costco, might have a license through the Dept. of Revenue so they can distribute to other retailers. Most retailers get their tobacco from the tobacco company distributors themselves (RJR and Altria sales reps grease the wheels for this process by visiting stores and signing them up on distribution contracts). The distributors are responsible for paying for and applying the Oregon tax stamp. The distributors don't inform the Dept. of Revenue to whom they distribute products. Therefore, the Department of Revenue doesn't have a comprehensive list of who sells tobacco in the state of Oregon, only who "distributes" tobacco.

Would paraphernalia and non-nicotine liquid be taxed too?

No, this is not a tax. Any store that sells products containing tobacco or nicotine would need to maintain a tobacco retail license.

Is TRL being pursued across the metro area?

TRL was implemented in Multnomah County in 2016. Washington County is considering TRL but is not yet ready to move forward. If TRL passes in Clackamas County, it will help build the case to approve TRL across the tri-county area.

What is the process for implementation?

The details to implement TRL will be determined. However, retailers will have a period of time to obtain their license before enforcement began.

How has TRL been received by chambers of commerce?

The Public Health Division has meetings scheduled in September to discuss the business case for TRL.

There are examples of chambers supporting TRL in other places. Driven by the economic benefits of a healthy workforce, Kansas City Chamber of Commerce is leading the Tobacco 21 initiative in Kansas to reduce tobacco-related tobacco illness.

How much does a Juul cost?

A starter kit, including the Juul device and four flavor pods, costs around \$50. Vaping devices such as e-cigarettes and Juuls are not taxed.

Are schools in support of TRL?

Public Health is going to talk about TRL with superintendents when school is back in session. A couple have already expressed support, stating that Juuls are a real distraction from learning.

Would the citizens vote on something like this?

While Clackamas County Public Health Division values community input, ballot measures are expensive. Instead of a vote in the mid-term election, Public Health will invite citizens and business owners to provide oral and written comments during the County Commissioners' public hearings.

NOV 19 2018

BCC, CH

November 14, 2018

Chairman Jim Bernard

Board of Commissioners & Dawn Emerick, Director Public Health Division

2051 Kaen Road

Oregon City, OR 97045

RE: Retail Tobacco License

Dear Chairman Bernard, Commissioner and Director Emerick:

I have been a tobacco retailer in Clackamas County for over twenty-five years. I have street level experience and knowledge people in County government do not have. I take exception to retailers being blamed as the source of "11th graders finding easy access to tobacco products." The survey did not ask where the kids got their tobacco, a retail shop or from peers and even family members. No retailer is out to get kids hooked on tobacco products. I had the Mother of a D.A.R.E. student buying him cigars because he was too young to buy them. The young man was one of the minors who participated in stings on retailers. She said she would rather he smoke cigars than do drugs. Therein lies your problem keeping tobacco out of the hands of minors.

I have long advocated for a retail tobacco license for a totally different reason. I worked with former State Representative Tom Butler and Mazen Malik of the Legislative Revenue office to get a statewide bill passed. Our reason was to prevent non-retail tobacco shops from buying online and selling to the public without paying the tobacco taxes legal retailers pay. The Dept. of Revenue still has no way to track legal retailers unless they are traditional retailers.

I also would suggest the tobacco retail license not exceed the price of a beer/wine resell license. An annual license fee of \$500 is excessive and punitive to small Mom & Pop businesses. While your literature shrugs off the financial impact of job losses, remember those jobs pay the taxes that support schools, public safety and other state services. The loss of a job does more than harm the employee, it impacts the entire infrastructure of the state taxation, not just Clackamas County.

I believe the retail tobacco license should be a state issue for consistency with each County collecting no more than the cost of a beer & wine license. The state as well as the FDA are already conducting stings of retail tobacco shops, why spend money duplicating their law enforcement efforts?

Respectfully submitted

Jan Esler-Rowe, President

A handwritten signature in cursive script that reads "Jan Esler-Rowe". The signature is written in black ink and is positioned to the right of the typed name "Jan Esler-Rowe, President".

Cascade Cigar & Tobacco Co., Inc.

9691 SE 82nd Avenue

Happy Valley, OR 97086

I am unable to attend the public hearings on the dates listed but I want to present my position on the matter.

Survey Questions for Tobacco Retailers

Introduction (

A Tobacco Retail License (TRL) would require businesses in the county who sell tobacco and nicotine products, including E-cigarettes, to purchase a license. This includes large retailers, convenience stores, gas stations, pharmacies and bars.

The state raised the minimum legal sales age for tobacco products from 18 to 21 years in January 2018 because research found that the vast majority of tobacco users started before the age of 20. Raising the sale age of tobacco products prevents children and young adults from developing a lifelong addiction to nicotine.

Licensing would allow the county to know who sells tobacco, monitor their compliance with laws and enforce penalties if tobacco is sold to people younger than 21.

1) How would you describe yourself?

- A. Owner
- B. Manager
- C. Staff

2) Please describe how employees are trained to prevent the sale of tobacco and/or electronic nicotine delivery systems (E-cigarettes, Juuls) to people under 21 years? (open-ended)

Please indicate whether you strongly agree, somewhat agree, somewhat disagree, strongly disagree, or neither agree or disagree with the following statements:

3) My current training policies and program are successful in limiting sales of tobacco and vaping products to minors.

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

4) Employees at my store have experienced minors attempting to purchase tobacco or vaping products illegally.

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

5) How can the Clackamas County Public Health Division support your education and training focused on reducing sales of tobacco and vaping products to minors? (open-ended)

According to the Oregon Health Authority, one in three Clackamas County 11th graders said that it would be “very easy” to access to tobacco products (2017 Oregon Healthy Teen survey). This is alarming because nicotine is a highly addictive powerful drug and may have a lasting negative impact on teens’ developing brains.

6) If a tobacco retail license system would help prevent youth from starting to use tobacco or vaping products, I would support a licensing program

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

7) If it would reduce or prevent youth from using tobacco, I would discontinue the sale of flavored tobacco and/or vaping products

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

8) If it would reduce or prevent youth from using tobacco, I would support a policy that prohibits retailers from selling tobacco within 1000 feet of schools.

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

9) My store would be willing to post Oregon Tobacco Quit Line information for tobacco users who are interested in quitting.

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

10) What questions or concerns do you have about a tobacco retail license program? (open-ended)

Information about listening session

Clackamas County Public Health Division is hosting two listening sessions to answer questions about tobacco retail licensing and hear your thoughts.

Tuesday, November 20, 2018

9:00 – 10:30 a.m.

Sandy Senior Center

38348 Pioneer Blvd.

Sandy, OR 97055-8001 (Auditorium-upstairs)

Tuesday, November 27, 2018

6:30 – 8:00 p.m.

Providence Willamette Falls Community Center,

519 15th St.

Oregon City, OR 97045

If you are interested in attending and need translation services, please call 503-742-5300

If you would like to be contacted by public health staff, please provide your contact information (optional):

Name

Email

Phone

City

#1

COMPLETE

Collector: Web Link 1 (Web Link)
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Last Modified: Friday, November 09, 2018 2:39:57 PM
Time Spent: 00:07:39
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Page 1

Q1 How would you describe yourself? **Owner**

Q2 Please describe how employees are trained to prevent the sale of tobacco and/or electronic nicotine delivery systems (E-cigarettes, Juuls) to people under 21 years? (open-ended)

We follow all FDA Federal guidelines and train our staff using their materials.

Q3 Please indicate whether you strongly agree, somewhat agree, somewhat disagree, strongly disagree, or neither agree or disagree with the following statements:

My current training policies and program are successful in limiting sales of tobacco and vaping products to minors. **Strongly agree**

Employees at my store have experienced minors attempting to purchase tobacco or vaping products illegally. **Strongly agree**

Q4 How can the Clackamas County Public Health Division support your education and training focused on reducing sales of tobacco and vaping products to minors? (open-ended)

We have been in business for 26 yrs with only once sale to a minor in that time frame. Employees know to check all ID of anyone who appears under 30. I have long advocated on the state level for retail tobacco licensing, but equal to beer & wine licensing. Tobacco retailers should not be charged more than alcohol sellers.

Tobacco Retail Licensing Retailer Feedback

Q5 According to the Oregon Health Authority, one in three Clackamas County 11th graders said that it would be “very easy” to access to tobacco products (2017 Oregon Healthy Teen survey). This is alarming because nicotine is a highly addictive powerful drug and may have a lasting negative impact on teens’ developing brains.

If a tobacco retail license system would help prevent youth from starting to use tobacco or vaping products, I would support a licensing program **Strongly disagree**

If it would reduce or prevent youth from using tobacco, I would discontinue the sale of flavored tobacco and/or vaping products **Strongly disagree**

If it would reduce or prevent youth from using tobacco, I would support a policy that prohibits retailers from selling tobacco within 1000 feet of schools. **Strongly disagree**

My store would be willing to post Oregon Tobacco Quit Line information for tobacco users who are interested in quitting. **Strongly disagree**

Q6 If you would like to be contacted by public health staff, please provide your contact information (optional):

Name	Jan Esler-Rowe
Company	Cascade Cigar & Tobacco Co., Inc
City/Town	Happy Valley
Email Address	jan@casdecigar.com
Phone Number	503-775-5885

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, November 27, 2018 11:06:03 AM
Last Modified: Tuesday, November 27, 2018 11:18:56 AM
Time Spent: 00:12:52
IP Address: 67.170.145.164

Page 1

Q1 How would you describe yourself? **Owner**

Q2 Please describe how employees are trained to prevent the sale of tobacco and/or electronic nicotine delivery systems (E-cigarettes, Juuls) to people under 21 years? (open-ended)

Under the OLCC regulations, we are required to card to prevent the sale of tobacco and/ or electronic nicotine delivery systems already... Licensing in county level just make it double taxing and give more hardship on retailers....

Q3 Please indicate whether you strongly agree, somewhat agree, somewhat disagree, strongly disagree, or neither agree or disagree with the following statements:

My current training policies and program are successful in limiting sales of tobacco and vaping products to minors. **Strongly agree**

Employees at my store have experienced minors attempting to purchase tobacco or vaping products illegally. **Strongly agree**

Q4 How can the Clackamas County Public Health Division support your education and training focused on reducing sales of tobacco and vaping products to minors? (open-ended)

We are doing our parts to not to sell tobacco and vaping products to minors in every way, and we are very successful to preventing sales to minors. Increasing tax and expenses will not help...

Tobacco Retail Licensing Retailer Feedback

Q5 According to the Oregon Health Authority, one in three Clackamas County 11th graders said that it would be “very easy” to access to tobacco products (2017 Oregon Healthy Teen survey). This is alarming because nicotine is a highly addictive powerful drug and may have a lasting negative impact on teens’ developing brains.

If a tobacco retail license system would help prevent youth from starting to use tobacco or vaping products, I would support a licensing program **Strongly disagree**

If it would reduce or prevent youth from using tobacco, I would discontinue the sale of flavored tobacco and/or vaping products **Somewhat agree**

If it would reduce or prevent youth from using tobacco, I would support a policy that prohibits retailers from selling tobacco within 1000 feet of schools. **Somewhat agree**

My store would be willing to post Oregon Tobacco Quit Line information for tobacco users who are interested in quitting. **Strongly agree**

Q6 If you would like to be contacted by public health staff, please provide your contact information (optional):

Name	Bok Lee
Company	Kearns Market
City/Town	Happy Valley
Email Address	bjlee62@comcast.net
Phone Number	5033677361

Implementing a Tobacco Retail License in Clackamas County

Tobacco Remains a Major Source of Harm

Tobacco use remains the most preventable cause of illness and death in America and Clackamas County. In the United States, cigarette smoking is responsible for more than 480,000 deaths per year, including more than 41,000 deaths resulting from secondhand smoke exposure. This is more deaths than from gun violence, HIV, motor vehicle accidents, and opioid overdosesⁱ.

All Clackamas County residents deserve opportunities for good health. Clackamas County is committed to further restrict minors' access to tobacco and other nicotine products, and support our communities that bear the highest health burden from tobacco-related illnesses and deaths. Recent examples of Clackamas County's efforts include our support of the statewide Tobacco 21 initiative, tobacco retailer licensing, and active enforcement of the Indoor Clean Air Act with businesses that allow on-site smoking.

Inequities Persist Among Tobacco Users

Tobacco disproportionately affects lower-income populations, communities of color, people living with mental illness, and the LGBTQI community. Tobacco retailer location is a factor in tobacco and other nicotine product use by adults, particularly for minority communities. Neighborhoods that have higher numbers or densities of tobacco retail outlets are more likely to be where more people of color and people experiencing economic hardship live. High densities of tobacco retailers have been linked to increased smoking rates among adults living in the surrounding neighborhoodsⁱⁱ.

Youth are More Vulnerable to Nicotine

Preventing nicotine dependence before it starts can help us reduce the inequitable burden of tobacco use. More than three quarters of smokers begin smoking before their 20th birthday. Adolescents who start smoking before their 19th birthday have on average a 20% higher risk of dying from a smoking-related illnessⁱⁱⁱ. Tobacco and other nicotine products remain too accessible for youth to use and purchase in Clackamas County. The percent of teens who smoke cigarettes has increased from 2013-2015. In that same time period, the fraction of 11th graders who have used electronic cigarettes has almost doubled. 8th grade use has more than tripled in two years. Overall smoking rates in Clackamas County are higher than the Oregon average for both age groups.

Clackamas Strategy to Reduce Tobacco Burden

Beginning in January 2018, Oregon will increase the state's tobacco and nicotine product possession age to 21 (Tobacco 21). Increasing the age to purchase these products, in combination with stronger local enforcement laws, are part of Clackamas County's comprehensive strategy to prevent youth from using nicotine products and end the burden of tobacco-related diseases and deaths. Because of this, Clackamas County is proposing to implement a tobacco retail license where businesses located in the County must obtain a license to sell tobacco and other nicotine products, including electronic cigarettes.

Effectiveness of Tobacco Retail Licensing

Communities across the country, including four in Oregon, are using a tobacco retail license as a best practice to prevent youth from illegally purchasing nicotine products. A number of these communities are demonstrating positive implementation results. For example, a recent assessment of 33 communities in California that implemented a tobacco retail license, showed decreased rates of illegal youth sales^{iv}. Locally, Multnomah County implemented a retail license in July 2016 and is on track to reduce illegal sales to minors.

A tobacco retail license is also useful as a surveillance and evaluation tool, and allows for greater local control of retailer education and enforcement activities. A tobacco retail license, in conjunction with Tobacco 21, would enable the County to educate businesses about tobacco laws, ensure accountability with tobacco laws, and evaluate where these business are located relative to schools and other youth-populated areas.

ⁱ Centers for Disease Control and Prevention. (2017). Burden of tobacco use in the US. Accessed at <https://www.cdc.gov/tobacco/campaign/tips/resources/data/cigarette-smoking-in-united-states.html>

ⁱⁱ Public Health Law Center. (2014). Location, location, location: Regulating tobacco retailer locations for public health. Accessed at <http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-guide-regulating-retailer-locations-2014.pdf>

ⁱⁱⁱ Choi, S.H., & Stommel, M. (2017). Impact of age at smoking initiation on smoking-related morbidity and all-cause mortality. *American Journal of Preventive Medicine*, 53, 33-41.

^{iv} American Lung Association. (2013). Tobacco retailer licensing is effective. Accessed at <http://center4tobaccopolicy.org/wp-content/uploads/2016/10/Tobacco-Retailer-Licensing-is-Effective-September-2013.pdf>



Clackamas County: Tobacco License Impact Analysis

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College of Urban and Public Affairs

April 2018

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This report was researched and produced by the Northwest Economic Research Center (NERC) with support from Clackamas County Public Health.



The Clackamas County Public Health Division serves the County by overseeing local health programs and initiatives, collecting and analyzing health data, and performing vital administrative and regulatory services.



NERC is based at Portland State University in the College of Urban and Public Affairs. The Center focuses on economic research that supports public-policy decision-making, and relates to issues important to the Pacific Northwest and the Portland Metropolitan Area. NERC serves the public, nonprofit, and private sector with economic analysis. Dr. Tom Potiowsky is the Director of NERC, and is the former Chair of the Department of Economics at Portland State University. Dr. Jenny H. Liu is NERC's Assistant Director and Assistant Professor in the Toulan School of Urban Studies and Planning. This report was researched and written by Peter Hulseman, with research support from Emma Willingham.

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Executive Summary

Passage of Senate Bill 754 (Tobacco 21) in August of 2017 raised the tobacco sales age from 18 to 21 in Oregon. However, there is currently no state law requiring retailers to have a license to sell tobacco products within the state. Without a full registry of tobacco vendors, it is difficult to determine whether or not said vendors are complying with the new law. Other counties within Oregon have adopted regional tobacco retail license programs, which help to ensure compliance with Tobacco 21. With this in mind, the Clackamas County Public Health Division requested that the Northwest Economic Research Center (NERC) investigate the potential economic impacts of adopting a county-wide Tobacco Retail License for the Public Health Division to inform decision makers.

To accomplish this, NERC used the modelling software IMPLAN. NERC relied on existing literature for potential effects that cannot be modeled by IMPLAN. It should be noted that, while some implications of Tobacco 21 are discussed, this report is primarily an analysis of the economic impact of tobacco retail licensing (TRL) for Clackamas County.

If TRL goes into effect, Clackamas County would see a reduction in employment of 4.12 Full Time Equivalent (FTE) positions, and a corresponding decreased in gross wages of \$129,185 (see Table 1). To put these numbers in perspective, in 2016 – the most recent year of IMPLAN data – there were 220,375 FTE employees in Clackamas County and 7,127 FTE employees in the industries included in the analysis. Labor Income was \$10,191,352,866 and \$204,899,969 respectively.

This only includes the loss of employment to the private sector and does not include the public employees who would be hired to regulate this industry – which would mitigate these effects. Estimates by Health Equity Zone (HEZ) are shown in Appendix A.

Table 1: Clackamas County Economic Impacts¹

Impact Type	Employment	Labor Income
Direct Effect	-3.20	-\$89,474
Indirect Effect	-0.41	-\$18,106
Induced Effect	-0.52	-\$21,605
Total Effect	-4.12	-\$129,185

The IMPLAN model is static, meaning that the above estimates do not account for dynamic price adjustments of tobacco and nicotine products, long-term health effects of tobacco, or decreases in tobacco revenue due to increased compliance with the minimum legal sales age.

¹ Indirect effects represent the effects on other firms in the supply chain. Induced effects indicate economic activity supported by wages.

Tobacco, like many addictive products, is a notoriously inelastic good—meaning that there is a disproportionately small decrease in demand to any increase in price. One current estimate for the price elasticity of tobacco in the United States is -0.4 .² This means that for a 1% increase in price, demand only decreases by 0.4%: retailers make more money by increasing the price of a good than they lose from the subsequent decrease in demand. Therefore, increasing the price is a viable method to pass on increased operational costs to consumers. This potential response is not included in the analysis.

Another limitation of the analysis is that of increased compliance with the new, higher legal sales age of tobacco and nicotine products. Without tobacco retail licensing it is difficult to enforce laws such as Tobacco 21. Hence, by passing tobacco retail licensing, retailers that previously skirted Tobacco 21 now are bearing the full cost of the regulation.

By increasing compliance, tobacco retail licensing indirectly brings about the health effects associated with Tobacco 21. Although this is not an analysis of Tobacco 21, these effects should be mentioned as there is potential for significant, positive, long-run economic impacts. The potential directions of these effects, which do not appear in the model, are shown in Table 2 below.

Table 2: Direction of other Potential Effects³

Type of Effect	Direction of Effect
Dynamic Price Adjustment (Elasticity)	Mitigates Negative Impact
Increased Compliance	Exacerbates Negative Impact
Long-term Health Effects	Mitigates Negative Impact

Key Findings if Clackamas County Tobacco Retail Licensing goes into effect

- Clackamas County would see a reduction in employment of 4.12 Full Time Equivalent (FTE) positions.
- Clackamas County would see a reduction in gross wages of \$129,185.
- The inelastic nature of tobacco products indicates that the above effects could be mitigated by raising prices for tobacco products.
- Tobacco licensing raises retailer compliance with laws – meaning that policies that could increase unemployment are felt. This indicates that the above effects could be too small.
- By ensuring compliance with Tobacco 21, Tobacco Retail Licensing will have positive health effects for the County that are unaccounted for in the above estimates.

² World Health Organization (2012). *The demand for cigarettes and other tobacco products* [PowerPoint Slides]. Retrieved from: http://www.who.int/tobacco/economics/2_1factorsaffectingconsumerbehavior.pdf

³ See the discussion of Other Potential Factors (pgs. 10-13) for more detail

In summary, IMPLAN estimates a total impact of 4.12 less FTE employees for Clackamas County out of the 7,127 FTE employees estimated in the pertinent industries in 2016. There are factors that could mitigate and exacerbate the negative impact including the dynamic price adjustments of tobacco and nicotine products, long-term health effects of tobacco use, or decreases in tobacco revenue due to increased compliance with the legal sales age. Overall, tobacco retail licensing is unlikely to have a significant adverse effect on the Clackamas County economy.

Introduction

Preventing smoking initiation for teenagers is a major goal of public health officials everywhere. This is in part due to the well-known health risks of smoking, but also because initiation in a person's youth leads to significantly higher chances of a long-term addiction.⁴ According to the 2014 *National Survey on Drug Use and Health*, 90 percent of adult smokers began smoking during their teenage years.⁵ Increasing the tobacco purchase age to 21 prevents early use of tobacco and nicotine products.

Passage of Senate Bill 754 (Tobacco 21) in August of 2017 raised the tobacco sales age from 18 to 21 in Oregon. However, there is currently no state law requiring retailers to have a license to sell tobacco products. Therefore, there are no guarantees that vendors will comply with the new law. Four counties and several cities within Oregon have adopted regional tobacco retail license requirements which helps ensure compliance with Tobacco 21. With this in mind, the Clackamas County Public Health Division requested that the Northwest Economic Research Center (NERC) investigate the potential economic impacts of adopting a county-wide Tobacco Retail License for the Public Health Division to inform decision makers.

To accomplish this, NERC used the modelling software IMPLAN. NERC relied on existing literature for potential effects that cannot be modeled by IMPLAN. It should be noted that, while some implications of Tobacco 21 are discussed, this report is primarily an analysis of the economic impact of tobacco retail licensing for Clackamas County.

⁴ Bonnie, Richard J.; Stratton, Kathleen; and Kwan, Leslie Y. *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*. Retrieved from: <https://www.nap.edu/read/18997/chapter/9#202>

⁵ United States Department of Health and Human Services. Substance Abuse and Mental Health Services Administration. Center for Behavioral Health Statistics and Quality. *National Survey on Drug Use and Health, 2014*. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2016-03-22. Retrieved from: <https://doi.org/10.3886/ICPSR36361.v1>

Data Description

Clackamas County Public Health provided NERC with a list of known tobacco retailers by Health Equity Zone (HEZ), zip code, and industry. Clackamas County Public Health divided the county into 10 Health Equity Zones to analyze data broken down by geographic areas. The HEZs serve as a tool for residents, policy makers, community-based organizations and businesses to address the unique needs of the communities located in each of the zones. Since the geographic area in the IMPLAN model is organized by zip code, NERC sorted zip codes into HEZs. In a few instances, zip codes were encompassed by multiple HEZs so NERC placed the zip code into the HEZ in which most of its retailers were located. This resulted in a negligible effect on HEZ estimates, and no effect on the county wide estimate.

The retailer's industry type was translated and sorted into one of three IMPLAN retail industries: food and beverage (IMPLAN code 400), gas station (402), or miscellaneous (406).⁶ One limitation of this analysis is that IMPLAN does not separate out industries into distinct retailers. As a result, it is impossible to isolate the impacts on small retailers or large retailers.

NERC assumed the cost for a tobacco retail license would be \$600 - which Clackamas County Public Health believes to be a conservative, high estimate. Therefore, the anticipated increase to operating costs for a given HEZ is \$600 multiplied by the number of retailers. For example, if there are three gas stations in the Molalla HEZ selling tobacco and nicotine products, then NERC would input an increased operating cost of \$1,800 for the gas station retailer industry into IMPLAN Molalla model (zip codes: 97038 and 97042).

⁶ Defined, in detail, in Appendix C.

Description of IMPLAN

IMPLAN is one the industry standard models for doing economic impact analysis. IMPLAN models are constructed using Social Accounting Matrices (SAM) based on spending and purchasing data from the Bureau of Economic Analysis (BEA) supplemented by data from other publicly available sources. SAMs are constructed to reflect the actual industry interactions in a region, and include government activities that are not traditionally reflected in this type of economic analysis.

SAMs create a map showing how money and resources flow through the economy. In a simulation, new economic activity is assumed to occur in an industry or group of industries. Based on past spending and purchasing activity, IMPLAN simulates the purchasing and spending necessary for this new economic activity to occur. IMPLAN tracks this new economic activity as it works its way through the economy. Also included in SAMs are household and government behavior.⁷ In addition to following purchasing and spending through the private sector, IMPLAN also estimates the impact of changes in disposable income and tax revenue.

A production function is constructed for each industry, reflecting its connections to other industries. Economic changes or events are propagated through this process as new economic activity motivates additional economic activity in other parts of the supply chain, and through changes in spending habits.

IMPLAN breaks out analysis results into three types of impact: direct, indirect, and induced.

- ❖ **Direct Impacts:** These are defined by the modeler, and placed in the appropriate industry. In this case, the direct impact is the increased operating cost for

⁷ Defined in Appendix C.

IMPLAN Impacts

The impact summary results are given in terms of employment, labor income, total value added, and output:

Employment represents the number of annual, 1.0 FTE jobs. These job estimates are derived from industry wage averages.

Labor Income is made up of total employee compensation (wages and benefits) as well as proprietor income. Proprietor income is profits earned by self-employed individuals.

Total Value Added is made up of labor income, property type income, and indirect business taxes collected on behalf of local government. This measure is comparable to familiar net measurements of output like gross domestic product.

Output is a gross measure of production. It includes the value of both intermediate and final goods. Because of this, some double counting will occur. Output is presented as a gross measure because IMPLAN is capable of analyzing custom economic zones. Producers may be creating goods that would be considered intermediate from the perspective of the greater national economy, but may leave the custom economic zone, making them a local final good.

tobacco retailers. The IMPLAN model uses built in estimates to translate this into direct employment, labor income, and value-added lost.

- ❖ **Indirect Impacts:** These impacts are estimated based on national purchasing and sales data that model the interactions between industries. This category reflects the economic activity necessary to support the new economic activity in the direct impacts by other firms in the supply chain.
- ❖ **Induced Impacts:** These impacts are created by the change in wages and employee compensation. Employees change purchasing decisions based on changes in income and wealth.

IMPLAN Analysis

To conduct the analysis, NERC assumed that the retailer bears the full cost of the tobacco retail license as an increase to their operating costs. The economic impacts for Clackamas County are shown below in Table 3. All values are in 2018 dollars. Impacts by HEZ are shown in Appendix A at the end of this report.

Table 3: Clackamas County Economic Impacts⁸

Impact Type	Employment	Labor Income
Direct Effect	-3.20	-\$89,474
Indirect Effect	-0.41	-\$18,106
Induced Effect	-0.52	-\$21,605
Total Effect	-4.12	-\$129,185

The year tobacco retail licensing goes into effect, Clackamas County will see a reduction in employment of 4.12 Full Time Equivalent (FTE) employees and gross wages of \$129,185. This only includes the loss of employment to the private sector and does not include the additional employees to regulate this industry – which would mitigate these effects. To put these numbers in perspective, in 2016 – the most recent year of IMPLAN data – there were 220,375 FTE employees in Clackamas County and 7,127 FTE employees in the industries included in the analysis. Labor Income was \$10,191,352,866 and \$204,899,969 respectively.

Other Potential Factors

The IMPLAN model is static, meaning that the above estimates do not account for dynamic price adjustments of tobacco and nicotine products, long-term health effects of tobacco use, or decreases in tobacco revenue due to increased compliance with the legal sales age. Some potential effects are discussed below.

Dynamic Price Adjustment (Elasticity)

Tobacco, like many addictive products, is a notoriously inelastic good—meaning that there is a disproportionately small decrease in demand to any increase in price. One current estimate for the price elasticity of tobacco in the United States is -0.4 .⁹ This means that for a 1% increase in price, demand only decreases by 0.4%: retailers make more money by increasing the price of a good than they lose from the subsequent decrease in demand. Therefore, increasing the price is a viable method to pass on increased operational costs to consumers.

⁸ Total Value Added and Output are included in a table in Appendix A.

⁹ World Health Organization (2012). *The demand for cigarettes and other tobacco products* [PowerPoint Slides]. Retrieved from: http://www.who.int/tobacco/economics/2_1factorsaffectingconsumerbehavior.pdf

Typically, market competition prevents such price increases. However, for a market-wide¹⁰ disturbance—such as tobacco retail licensing—every retailer faces the same increase in operating costs and is therefore better able to pass it on to consumers. The inelastic nature of tobacco products likely means that the employment and wage effects of the license fee would be less than indicated in Table 3, as consumers would share some of the increased cost.

Compliance

Another limitation of the analysis is that of increased compliance with the legal sales age of tobacco and nicotine products. Without tobacco retail licensing it is difficult to enforce laws such as Tobacco 21. By passing tobacco retail licensing, retailers that previously skirted Tobacco 21 now are bearing the full cost of the regulation. This means that Table 3 underestimates the negative employment and wage effects, as tobacco retail licensing would increase compliance for other regulations (specifically, Tobacco 21).

Oregon conducts two types of compliance checks for tobacco retailers: Synar Inspections, required as part of the federal Synar Amendment prohibiting the sale of tobacco to minors, and Enforcement Inspections. Results for these state enforcement inspections vary considerably from year to year: over the 2013-2018 period, Clackamas County's overall failure rate ranged from 14-25%.

Long-term Health Effects

By increasing compliance, tobacco retail licensing indirectly brings about the health effects associated with Tobacco 21. Although this is not an analysis of Tobacco 21, these effects should be mentioned as there is potential for significant long-run economic impacts.

The health affected associated with tobacco use are known to increase medical costs and decrease quality of life. Additionally, the loss of life associated with tobacco usage decreases employment and other economic activity. The Oregon Health Authority, using a Center for Disease Control methodology, estimates the total effect of tobacco use in Oregon to be \$2.5 billion a year.¹¹ The magnitude of dynamic, long-run estimates such as these are difficult to verify – but tobacco usage does inflict large costs on society over the span of decades. By encouraging Tobacco 21 compliance among retailers, youth initiation rates (and thus long-term medical costs) will decrease, indicating that the estimates in Table 3 overestimate the negative effects of tobacco retail licensing.

The direction of the above potential effects are shown in the table below.

¹⁰ Retailers bordering counties without tobacco retail licensing would not be experiencing a "market-wide" disturbance as other competitors in their market don't have the same increase in operating cost.

¹¹ Oregon Health Authority Public Health Division, Health Promotion and Chronic Disease Prevention Section. 2017. Oregon tobacco facts. Available, along with other years, at <https://public.health.oregon.gov/PreventionWellness/TobaccoPrevention/Pages/pubs.aspx>.

Table 4: Direction of Other Potential Effects¹²

Type of Effect	Direction of Effect
Dynamic Price Adjustment (Elasticity)	Mitigates Negative Impact
Increased Compliance	Exacerbates Negative Impact
Long-term Health Effects	Mitigates Negative Impact

Conclusion

In summary, IMPLAN estimates a total impact of 4.12 less FTE employees for Clackamas County out of the 7,127 FTE employees estimated in the pertinent industries in 2016. There are factors that could mitigate and exacerbate the negative impact including the dynamic price adjustments of tobacco and nicotine products, long-term health effects of tobacco use, or decreases in tobacco revenue due to increased compliance with the legal sales age. Overall, tobacco retail licensing is unlikely to have a significant adverse effect on the Clackamas County economy.

¹² See the discussion of Other Potential Factors (pgs. 10-13) for more detail.

Appendix A: Economic Impact by Health Equity Zone

Below are the 2016 estimates IMPLAN reports for population, total employment, and total personal income, along with the complete economic impact tables for Clackamas County and each Health Equity Zone. All values are in 2018 dollars.

Tables A1: Clackamas County Economic Impacts

Clackamas County	
Population	408,062
Total Employment	220,375
Total Personal Income	\$20,476,346,368

Impact Type	Employment ¹³	Labor Income	Total Value Added	Output
Direct Effect	-3.20	-\$89,474	-\$101,981	-\$166,800
Indirect Effect	-0.41	-\$18,106	-\$37,078	-\$61,464
Induced Effect	-0.52	-\$21,605	-\$39,052	-\$65,830
Total Effect	-4.12	-\$129,185	-\$178,111	-\$294,094

Tables A2: 2018 Impacts, Canby

Canby	
Population	24,929
Total Employment	11,636
Total Personal Income	\$1,250,938,112

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.20	-\$5,771	-\$6,664	-\$10,800
Indirect Effect	-0.01	-\$452	-\$927	-\$1,542
Induced Effect	-0.02	-\$706	-\$1,403	-\$2,354
Total Effect	-0.23	-\$6,930	-\$8,995	-\$14,696

¹³ The total impact does not always exactly equal the sum of the direct, indirect, and induced impacts due to rounding.

Tables A3: 2018 Impacts, Colton

Colton	
Population	3,204
Total Employment	569
Total Personal Income	\$160,794,464

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.02	-\$664	-\$694	-\$1,200
Indirect Effect	-0.00	-\$27	-\$69	-\$126
Induced Effect	-0.00	-\$13	-\$56	-\$91
Total Effect	-0.02	-\$704	-\$819	-\$1,417

Tables A4: 2018 Impacts, Estacada

Estacada	
Population	14,439
Total Employment	3,877
Total Personal Income	\$724,536,608

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.12	-\$3,219	-\$3,660	-\$6,000
Indirect Effect	-0.00	-\$207	-\$518	-\$866
Induced Effect	-0.01	-\$175	-\$486	-\$804
Total Effect	-0.13	-\$3,601	-\$4,664	-\$7,669

Tables A5: 2018 Impacts, Gladstone

Gladstone	
Population	13,164
Total Employment	4,304
Total Personal Income	\$660,539,392

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.09	-\$2,863	-\$3,401	-\$5400
Indirect Effect	-0.01	-\$198	-\$502	-\$800
Induced Effect	-0.01	-\$245	-\$543	-\$867
Total Effect	-0.10	-\$3,306	-\$4,447	-\$7,067

Tables A6: 2018 Impacts, Lake Oswego

Lake Oswego	
Population	46,176
Total Employment	38,730
Total Personal Income	\$2,317,096,320

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.25	-\$7,719	-\$8,865	-\$14,400
Indirect Effect	-0.02	-\$,1039	-\$2,187	-\$3,649
Induced Effect	-0.03	-\$1,111	-\$1,976	-\$3,395
Total Effect	-0.30	-\$9,869	-\$13,028	-\$21,444

Tables A7: 2018 Impacts, Molalla

Molalla	
Population	20,618
Total Employment	7,292
Total Personal Income	\$1,034,586,832

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.12	-\$3,549	-\$4,026	-\$6,600
Indirect Effect	-0.01	-\$245	-\$539	-\$919
Induced Effect	-0.01	-\$314	-\$662	-\$1,090
Total Effect	-0.13	-\$4,109	-\$5,227	-\$8,610

Tables A8: 2018 Impacts, North Clackamas

North Clackamas	
Population	124,419
Total Employment	80,424
Total Personal Income	\$6,243,259,008

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-1.06	-\$30,082	-\$34,920	-\$56,400
Indirect Effect	-0.11	-\$5,343	-\$9,736	-\$16,149
Induced Effect	-0.18	-\$7,864	-\$13,630	-\$23,258
Total Effect	-1.35	-\$43,290	-\$58,285	-\$95,808

Tables A9: 2018 Impacts, Oregon City

Oregon City	
Population	60,770
Total Employment	22,203
Total Personal Income	\$3,049,432,336

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.52	-\$13,876	-\$15,641	-\$25,800
Indirect Effect	-0.03	-\$1,306	-\$3,070	-\$5,103
Induced Effect	-0.06	-\$2,373	-\$4,326	-\$7,194
Total Effect	-0.61	-\$17,556	-\$23,036	-\$38,097

Tables A10: 2018 Impacts, Oregon Trail

Oregon Trail	
Population	32,378
Total Employment	12,126
Total Personal Income	\$1,624,718,483

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.41	-\$11,340	-\$12,645	-\$21,000
Indirect Effect	-0.03	-\$938	-\$2,253	-\$3,634
Induced Effect	-0.03	-\$1,167	-\$2,436	-\$4,006
Total Effect	-0.47	-\$13,445	-\$17,334	-\$28,640

Tables A11: 2018 Impacts, West Linn - Wilsonville

West Linn - Wilsonville	
Population	54,961
Total Employment	36,211
Total Personal Income	\$2,757,918,720

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.40	-\$10,390	-\$11,465	-\$19,200
Indirect Effect	-0.04	-\$1,666	-\$3,468	-\$5,829
Induced Effect	-0.04	-\$1,485	-\$2,881	-\$4,827
Total Effect	-0.48	-\$13,540	-\$17,815	-\$29,855

Appendix B: Economic Impact by City Zip Codes

Clackamas County requested that NERC provide the above tables for select cities. IMPLAN does not have city level models; however, NERC used zip codes contained within each of the cities for a reasonable approximation. Below are the 2016 estimates IMPLAN reports for population, total employment, and total personal income, along with the complete economic impact tables for the cities of Happy Valley, Milwaukie, West Linn, and Wilsonville. All values are in 2018 dollars.

Tables B1: 2018 Impacts, Happy Valley (Zip Code: 97086)

Happy Valley	
Population	29,809
Total Employment	10,793
Total Personal Income	\$1,495,815,808

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.11	-\$3,154	-\$3,828	-\$6,000
Indirect Effect	-0.01	-\$238	-\$553	-\$907
Induced Effect	-0.01	-\$283	-\$599	-\$1,005
Total Effect	-0.12	-\$3,677	-\$4,981	-\$7,913

Tables B2: 2018 Impacts, Milwaukie (Zip Codes: 97222, 97267, and 97269)

Milwaukie	
Population	72,459
Total Employment	35,684
Total Personal Income	\$3,635,931,392

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.65	-\$18,271	-\$21,094	-\$34,200
Indirect Effect	-0.06	-\$2,846	-\$5,304	-\$8,730
Induced Effect	-0.08	-\$3,619	-\$6,667	-\$10,913
Total Effect	-0.79	-\$24,737	-\$33,067	-\$53,844

Tables B3: 2018 Impacts, West Linn (Zip Code: 97068)

West Linn	
Population	30,607
Total Employment	10,193
Total Personal Income	\$1,535,827,456

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.21	-\$5,568	-\$5,980	-\$10,200
Indirect Effect	-0.02	-\$563	-\$1,314	-\$2,166
Induced Effect	-0.01	-\$438	-\$930	-\$1,543
Total Effect	-0.24	-\$6,571	-\$8,225	-\$13,910

Tables B4: 2018 Impacts, Wilsonville (Zip Code: 97070)

Wilsonville	
Population	24,354
Total Employment	26,018
Total Personal Income	\$1,222,091,264

Impact Type	Employment	Labor Income	Total Value Added	Output
Direct Effect	-0.19	-\$4,821	-\$5,485	-\$9,000
Indirect Effect	-0.02	-\$792	-\$1,631	-\$2,766
Induced Effect	-0.01	-\$515	-\$1,002	-\$1,690
Total Effect	-0.22	-\$6,129	-\$8,119	-\$13,457

Appendix C: Definitions

Price Elasticity of Demand: The degree to which demand is sensitive to a change in price.

Government Behavior: Taxation and spending patterns of the government.

Household Behavior: Employment and spending patterns of households.

Industry: A particular form or branch of economic or commercial activity, typically named after the principal product or service. Pertinent industries are described below.

Retail – Food and Beverage: Industries in the Food and Beverage Stores subsector usually retail food and beverages merchandise from fixed point-of-sale locations. Establishments in this subsector have special equipment (e.g., freezers, refrigerated display cases, refrigerators) for displaying food and beverage goods. They have staff trained in the processing of food products to guarantee the proper storage and sanitary conditions required by regulatory authority. Examples: Grocery Stores, Specialty Food Stores, and Beer, Wine, and Liquor Stores. Retrieved from BLS.gov.

Retail – Gasoline Stores: Industries in the Gasoline Stations subsector retail automotive fuels (e.g., gasoline, diesel fuel, gasohol, alternative fuels) and automotive oils or retail these products in combination with convenience store items. These establishments have specialized equipment for the storage and dispensing of automotive fuels. Retrieved from BLS.gov.

Retail - Miscellaneous: Industries in the Miscellaneous Store Retailers subsector retail merchandise from fixed point-of-sale locations (except new or used motor vehicles and parts; new furniture and home furnishings; new appliances and electronic products; new building materials and garden equipment and supplies; food and beverages; health and personal care goods; gasoline; new clothing and accessories; and new sporting goods, hobby goods, books, and music). Establishments in this subsector include stores with unique characteristics like florists, used merchandise stores, and pet and pet supply stores as well as other store retailers. Includes tobacco specialty stores (those engaged in retailing cigarettes, cigars, tobacco, pipes, and other smokers' supplies). Retrieved from BLS.gov.

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Tobacco Retail Licensing: Economic Impact

In January 2018, Oregon increased the age to purchase tobacco and nicotine products from age 18 to 21 (Tobacco 21). Tobacco Retail Licensing (TRL) is a policy we can adopt in Clackamas County to enforce laws like Tobacco 21. Combined, TRL and Tobacco 21 are part of Clackamas County's plan to prevent youth from using nicotine and end tobacco-related disease.

TRL requires every business that sells tobacco and nicotine products, like gas stations and grocery stores, to have a license. A license to sell tobacco and nicotine products is similar to the licenses required to sell alcohol and marijuana. Tobacco Retail Licensing is a necessary tool to enforce existing federal, state, and local laws.

Clackamas County Public Health Division asked the Northwest Economic Research Center (NERC) to look at the potential economic impacts of a county-wide TRL to inform decision makers and stakeholders.

What is the cost of a license? How will the fee be used?

A Tobacco Retail License may cost \$500 - \$600 each year. Specifically, the funds will be used to:

- Identify retailers, track compliance with laws, and enforce penalties if tobacco is sold to persons under the age of 21.
- Provide education to retailers and personalized technical assistance about laws and consequences if tobacco is sold illegally.
- Perform twice annual compliance checks.

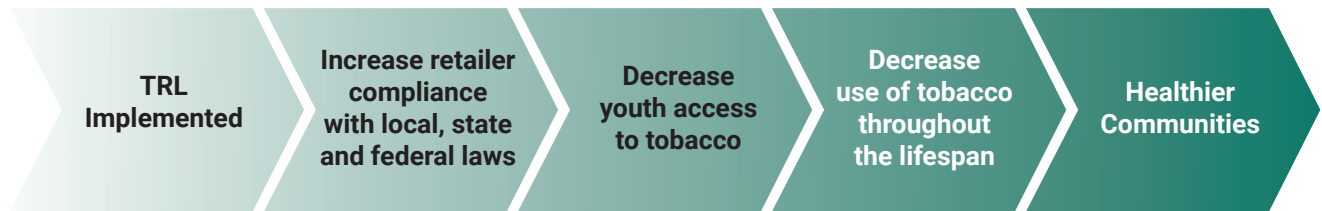
How will the fee impact the economy?

Tobacco Retail License fees are not likely to have a big impact on the Clackamas County economy. If implemented, the County may see a total loss of 4.12 full-time jobs out of the 7,127 full-time employees in the impacted industries. Total loss in wages from TRL is estimated to be \$129,185. This is a small fraction of the nearly \$205 million in labor income represented by employees in the impacted industries.

The table below shows the potential loss in full-time equivalent (FTE) employment positions and income (Labor Income) for each jurisdiction within Clackamas County.

Jurisdiction	FTE	Labor Income
Canby	-0.23	-\$6,930
Colton	-0.02	-\$704
Estacada	-0.13	-\$3,601
Gladstone	-0.10	-\$3,306
Happy Valley	-0.12	-\$3,677
Lake Oswego	-0.30	-\$9,869
Milwaukie	-0.79	-\$24,737
Molalla	-0.13	-\$4,109
Oregon City	-0.61	-\$17,556
Oregon Trail	-0.47	-\$13,445
West Linn	-0.24	-\$6,571
Wilsonville	-0.22	\$6,129
Unincorporated	-0.79	-\$28,551
Total County	-4.12	-\$129,185

Not included in the analysis and worth noting



Dynamic Price Adjustment

Tobacco, like many addictive products, does not see a very big change in demand to any increase in price. Demand only decreases by 0.4% for a 1% increase in price. This means that retailers actually make more money by increasing the price of a product than they would lose from any loss in demand. The annual license fee of \$500-\$600 would cost \$1.37-\$1.64 per day. A small increase in price of tobacco and nicotine products is one way that retailers can offset the cost of a TRL.

Long Term Health Effects

If stores comply with tobacco rules and regulations, TRL has the potential to improve quality of life for future generations. Tobacco is associated with cancer, respiratory diseases, and cardiovascular diseases which, are known to increase medical costs and decrease quality of life. Additionally, chronic disease and early death caused by tobacco contribute to work absenteeism and decreased economic activity. Using TRL to enforce laws like Tobacco 21, youth will have less access to tobacco products and will smoke less over their lifespan resulting in decreased tobacco-related disease and long-term medical care costs.

About NERC

NERC is based at Portland State University in the College of Urban and Public Affairs. The Center focuses on economic research that supports public-policy decision-making, and relates to issues important to the Pacific Northwest and the Portland Metropolitan Area. NERC serves the public, nonprofit, and private sector with economic analysis.

Tobacco Retail Licensing and Youth Product Use

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abstract

BACKGROUND: Restricting youth access to tobacco is a central feature of US tobacco regulatory policy, but impact of local tobacco retail licensing (TRL) regulation on cigarette smoking rates remains uncertain. Effects of TRL on other tobacco product use and use as adolescents reach the age to legally purchase tobacco products has not been investigated.

METHODS: Prevalences of ever and past 30-day cigarette, electronic cigarette (e-cigarette), cigar, and hookah use were assessed in a survey of a cohort of 1553 11th- and 12th-grade adolescents (mean age: 17.3 years); rates of initiation were evaluated 1.5 years later. An American Lung Association (2014) youth access grade was assigned to each of 14 political jurisdictions in which participants lived on the basis of the strength of the local TRL ordinance.

RESULTS: At baseline, participants living in 4 jurisdictions with “A” grades (ie, with most restrictive ordinances) had lower odds of ever cigarette use (odds ratio [OR] 0.61; 95% confidence interval [CI] 0.41–0.90) and of past 30-day use (OR 0.51; 95% CI 0.29–0.89) than participants in 10 D- to F-grade jurisdictions. At follow-up at legal age of purchase, lower odds of cigarette use initiation (OR 0.67; 95% CI 0.45–0.99) occurred in jurisdictions with stronger TRL policy. Lower odds of e-cigarette initiation at follow-up (OR 0.74; 95% CI 0.55–0.99) and of initiation with past 30-day use (OR 0.45; 95% CI 0.23–0.90) were also associated with better regulation.

CONCLUSIONS: Strong local TRL ordinance may lower rates of cigarette and e-cigarette use among youth and young adults.



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Dr McConnell conceptualized and designed the study and reviewed and revised the manuscript; Mr Astor collected data on tobacco retail licensing in study communities, conducted a literature review, and drafted the manuscript; Dr Urman conducted all data analyses; Drs Barrington-Trimis, Berhane, Steinberg, Cousineau, Leventhal, Unger, Cruz, Pentz, and Samet provided advice on the analysis and interpretation of results and reviewed and provided guidance on the development of the manuscript; and all authors approved the final manuscript as submitted.

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WHAT'S KNOWN ON THIS SUBJECT: Restricting youth access to tobacco has long been a central feature of US tobacco regulatory policy, but the impact of local tobacco retail licensing regulation on electronic cigarette use rates remains uncertain.

WHAT THIS STUDY ADDS: Strong local tobacco retail licensing ordinances may lower rates of cigarette and electronic cigarette use among youth and young adults. Success of regulations restricting youth access to cigarettes and alternative tobacco products may depend on ensuring a robust enforcement scheme.

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Most US states have had laws to restrict the sale of cigarettes to minors for decades.¹ Because there was widespread violation of these laws by tobacco vendors,² Congress passed the Synar Amendment to the Public Health Service Act in 1993,³ which required that states enact laws banning cigarette sales to minors and that they enforce such laws with compliance checks using undercover “decoys” posing as underage customers.^{4,5}

Enforcement of these youth access regulations is a central feature of US tobacco control programs. However, although compliance checks of vendors have been shown to reduce sales to minors, their effectiveness in reducing youth smoking rates is less certain, for example, because they may obtain cigarettes legally purchased by older friends.^{6,7} Key regulatory features that are reported to reduce both compliance violations and youth cigarette use include a mandatory tobacco retailer licensing fee to provide sustainable funding of undercover decoys to make at least 1 annual visit to each vendor and fines or penalties for violations.^{7,8}

Low rates of vendor compliance checks, which occur annually at only a small fraction of tobacco vendors under existing state and federal enforcement programs,^{9,10} and inadequate penalties may explain why associations with youth smoking rates have not consistently been observed.⁷ Within states, compliance enforcement may vary markedly on the basis of local ordinances that provide funding to do so. Given the expense involved in enforcement and the lack of expert consensus on its benefits, additional studies are warranted to assess the effectiveness in reducing youth cigarette use.

The impact of youth access restriction on the initiation of alternative tobacco products, such as electronic cigarettes (e-cigarettes), hookah, and cigars, has not been studied, although prevalence of ever

using these products is high.¹¹ An additional gap in understanding the effectiveness of youth tobacco access restriction is during the transition to the legal age of purchase. Most adult smokers historically have initiated cigarette use by age 18,¹² which is the legal age of purchase in most states. There have been few prospective studies examining the effect of tobacco licensing and youth access restriction on cigarette and alternative tobacco product use during this transition to adult life.

Among participants in the Southern California Children’s Health Study, we evaluated whether youth living in jurisdictions with a strong tobacco retail licensing (TRL) ordinance had reduced prevalence of cigarette and other tobacco use, compared with participants in jurisdictions with a poor TRL ordinance. In addition, using prospectively collected data, we assessed the association of local ordinances with the initiation of tobacco product use during a cohort follow-up as youth reached 18 years of age, the age at which the sale of tobacco products was legal in California at the time of the study.

METHODS

Study Population

Between January and June of 2014, a total of 2097 11th- and 12th-grade participants in the Southern California Children’s Health Study (mean age: 17.3; SD: 0.6) completed self-administered questionnaires collecting detailed information about cigarette and alternative tobacco product use. Follow-up online questionnaire data were collected on 1553 participants (74% of the 2097 at baseline) as they reached 18 years of age, between January 2015 and June 2016 (mean age: 18.8; SD: 0.6). Additional characteristics of the study sample have been described previously.^{13,14}

Ethics Statement

The study was approved by the University of Southern California Institutional Review Board. Parental written informed consent and child assent were obtained for all Children’s Health Study participants <18 years of age. Participants age 18 or older provided written informed consent.

Tobacco and Alternative Tobacco Product Use

At each survey, participants were asked whether they had ever tried e-cigarettes, cigarettes, cigars, or hookah and the number of days each product was used in the past 30 days.¹² Participants who had “never tried” a product (not “even 1 or 2 puffs”) were classified as never users. Those reporting an age at first use of each tobacco product were classified as ever (lifetime prevalent) users of that product at baseline. Rates of initiation were calculated on the basis of a new report of use of a tobacco product at follow-up among participants not reporting use of that product at baseline. Both prevalent users and initiators of each tobacco product were further characterized on the basis of past 30-day use.

Evaluation of Local Tobacco Regulatory Licensing to Reduce Youth Access

There were 14 political jurisdictions with corresponding tobacco product ordinances across the 12 participating Children’s Health Study communities. Four study jurisdictions were assigned an A grade on the basis of the 2014 American Lung Association (ALA) “Reducing Sales of Tobacco Products” to youth scale, which is used to evaluate the strength of the local TRL ordinance across California.¹⁵ An A grade required adequate annual retail license fees, which were paid by all tobacco retailers (including gas stations, convenience stores, larger grocery stores, and pharmacies),

to cover the administration of an enforcement program and regular compliance checks in each store. An A grade also required (1) an annual renewal of this local license; (2) a provision that any violation of local, state, or federal law is a violation of the license; and (3) a graduated penalty system for violators, including financial deterrents such as fines or other penalties, including license revocation or suspension.¹⁵

The remaining study jurisdictions were assigned an F grade (8) or a D grade (1). An F grade indicated either (1) no local ordinance mandating a license fee or (2) a fee insufficient to fund administrative and compliance checks as well as none of the 3 other provisions for an A grade. The jurisdiction with the D grade had a licensing fee that was insufficient to cover administration and compliance checks, but it had at least 1 of the other 3 provisions listed above that were needed for an A grade. The D and F communities were collapsed for data analysis, because the insufficient annual fee is a central feature of regulation to reduce youth access.^{7,15} No study jurisdiction in this sample had B or C grades corresponding to TRL policies of intermediate quality.¹⁵

ALA assigned grades to other categories of tobacco policy (smoke-free housing policy, smoke-free outdoor policy, and overall tobacco policy).¹⁵ These policies, which are not specific to youth tobacco product access, were not associated with tobacco product use in this study, and results are not presented.

Covariates

Self-administered questionnaires completed by parents of participants were used to assess sociodemographic characteristics, including sex, ethnicity (Hispanic, non-Hispanic white, other), age at baseline, and parental education (completed high school or less, some

college, or completed college or more).

Statistical Analysis

Unconditional logistic regression models were used to evaluate the associations of living in a jurisdiction with an ALA grade A versus D or F TRL ordinance with baseline ever and past 30-day use of cigarettes, e-cigarettes, hookah, cigars, or use of any of these tobacco products in separate models. Models were also fit to evaluate associations of ALA grade with the initiation of each product, with or without past 30-day use. In models used to evaluate the initiation of use of each tobacco product between baseline and follow-up, the sample was restricted to baseline never users of that product. Odds ratios (ORs) and 95% confidence intervals (CIs) were used to estimate the association of each tobacco product use with an ALA grade. All models were adjusted for sex, ethnicity, highest parental education, and baseline age, factors that have been associated both with e-cigarette use and cigarette use in previous studies.^{13,14} Each tobacco product-specific model was also adjusted for a baseline history of use of any other tobacco product, because there was clustering of the tobacco product outcomes.¹³ A missing indicator category for covariates and any other tobacco product use was included where appropriate. Additionally, all models included a random effect for community to account for similarities among subjects within jurisdictions. In a sensitivity analysis, models were further adjusted for time between baseline and follow-up questionnaire completion. Statistical analyses were based on 2-sided hypotheses tested at a 0.05 level of significance, using SAS 9.4 (SAS Institute, Inc, Cary, NC).

RESULTS

Of the 2097 participants, 31.1% (652) lived in a jurisdiction with an

ALA 2014 TRL A grade, and 68.9% (1445) students lived in jurisdictions with D or F grades. Sex and ethnic distributions were similar in A and D or F jurisdictions, but students in A jurisdictions were more likely to come from less-educated households (Table 1). Unadjusted prevalence and initiation rates for each tobacco product were lower in jurisdictions with A than with D or F grades, with the exception of new initiation of hookah with past 30-day use. Initiation rates were substantial among never tobacco product users at baseline, in particular for e-cigarette use. Both prevalence and initiation rates of past 30-day tobacco product use generally did not exceed 10% for any product.

For baseline prevalence of ever and past 30-day use of cigarette and e-cigarette ever use, and to a lesser degree for prevalence of cigar use, jurisdictions with A grades had generally lower use rates than D or F jurisdictions (Supplemental Fig 3). However, within both grade groups, there was considerable variability in prevalence rates across jurisdictions for all tobacco products. Rates in individual jurisdictions had wide CIs (results not shown) because of small sample size. Rates of tobacco product initiation at follow-up were also generally quite variable across the jurisdictions within both A and D or F grades (Supplemental Fig 4).

At baseline, participants living in the 4 jurisdictions with A grades had lower odds of ever using a cigarette (OR 0.61; 95% CI 0.41–0.90) and of past 30-day use (OR 0.51; 95% CI 0.29–0.89) than participants in 10 D- to F-grade jurisdictions, after adjusting for sociodemographic covariates and other tobacco product use at baseline (Fig 1).

Living in A-grade jurisdictions was associated with lower odds of initiation of cigarette use between baseline and the follow-up questionnaire (OR 0.67; 95% CI 0.45–0.99 [Fig 2]). The risks of

TABLE 1 Prevalence of Sociodemographic Characteristics, Lifetime, and Current (Last 30-Day) Use of Each Tobacco Product at Baseline and Rates of Product Initiation at Follow-up Among Youth Residing in a Jurisdiction With ALA Reduced Tobacco Sales, Grade A or D or F

	Grade A	Grade D or F
	N (% ^a)	N (% ^a)
Sex		
Male	324 (49.7)	735 (50.9)
Female	328 (50.3)	710 (49.1)
Ethnicity		
Hispanic white	349 (53.5)	736 (50.9)
Non-Hispanic white	230 (35.3)	504 (34.9)
Other	73 (11.2)	205 (14.2)
Parent education		
Less than or equal to high school	245 (41.3)	460 (34.3)
Some college	219 (36.9)	502 (37.4)
College or more	129 (21.8)	379 (28.3)
Prevalent ever tobacco product use at baseline		
Cigarette	89 (13.7)	302 (21.0)
E-cigarette	123 (19.0)	379 (26.4)
Hookah	158 (24.3)	411 (28.6)
Cigars	69 (10.6)	204 (14.2)
Any tobacco product	214 (32.9)	564 (39.2)
Prevalent past 30-d tobacco product use at baseline		
Cigarette	24 (3.7)	95 (6.6)
E-cigarette	56 (8.6)	145 (10.1)
Hookah	62 (9.5)	162 (11.3)
Cigars	21 (3.2)	55 (3.8)
Any tobacco product	107 (16.5)	267 (18.6)
Initiation of tobacco product use (between baseline and follow-up) ^b		
Cigarette	52 (13.1)	156 (18.0)
E-cigarette	92 (24.7)	235 (29.7)
Hookah	55 (15.9)	146 (18.9)
Cigars	49 (12.0)	158 (17.1)
Any tobacco product	85 (27.7)	198 (30)
Initiation with past 30-d tobacco product use at follow-up ^b		
Cigarette	17 (4.3)	52 (6.0)
E-cigarette	17 (4.7)	69 (8.9)
Hookah	16 (4.7)	32 (4.2)
Cigars	12 (2.9)	36 (3.9)
Any tobacco product	24 (7.9)	78 (12.1)

^a The denominator (652 in grade A; 1445 in grade D or F) varies because of missing values in covariates.

^b Restricted to nonusers of each product (or of any tobacco product) at baseline.

initiation of e-cigarettes (OR 0.74; 95% CI 0.55–0.99) and of initiation with past 30-day use (OR 0.45; 95% CI 0.23–0.90) were also lower in A-grade than D- or F-grade jurisdictions. In sensitivity analyses adjusting for time since turning 18 at follow-up, there was no change in the protective effect estimate of living in a well-regulated (A-grade) jurisdiction (results not shown). Participants still living in their jurisdiction of origin at follow-up evaluation would have had consistent exposure to the same regulatory environment. In this sample, there were stronger protective A-grade

compared with D- or F-grade associations with cigarette and e-cigarette initiation at follow-up (and of initiation of e-cigarettes with past 30-day use) than in the entire sample (results not shown). The protective association of A-grade residence with initiation of cigar use was similar in magnitude to the association with cigarette and e-cigarette use but was not statistically significant.

DISCUSSION

Central features of the ALA TRL grade include a licensing fee

sufficient to fund compliance checks and enforcement of regulations prohibiting tobacco sales to minors and penalties for violating the law, features of TRL that have been reported to be necessary to reduce sales to and use by youth.⁷ Compared with living in a jurisdiction with poor TRL policy, youth in a jurisdiction satisfying these criteria were less likely to smoke in high school. In a prospective follow-up of the cohort, the odds of initiation of e-cigarette use, with or without past 30-day use, and of initiation of cigarette use were also lower in well-regulated jurisdictions. Stronger associations among participants still living in their jurisdiction of origin at follow-up evaluation, with consistent exposure to the same regulatory environment throughout, also suggest that the benefits of good TRL policy extended both beyond cigarette use to e-cigarette use and into early adult life at age 18 when the sale of tobacco products was legal at the time of the study. The protective associations were large, with risk lower by one-third to a half in the strong compared with weak TRL jurisdictions (depending on the outcome).

There has been uncertainty regarding the effects of youth access restrictions on cigarette use.^{6,7,16} Some authors of prospective studies in which age-specific prevalence of tobacco use was assessed before and after regulatory intervention to restrict youth access found reductions in cigarette use,^{17–20} but others found no benefit.^{21,22} Authors of 1 review of studies that reported changes in smoking associated with youth access restrictions found no relationship of vendor compliance or of changes in vendor compliance, with smoking prevalence in a meta-analysis of available studies,⁶ perhaps because the restriction of commercial access resulted in a shift to social sources of cigarettes such as older friends or siblings. Authors of other observational studies have

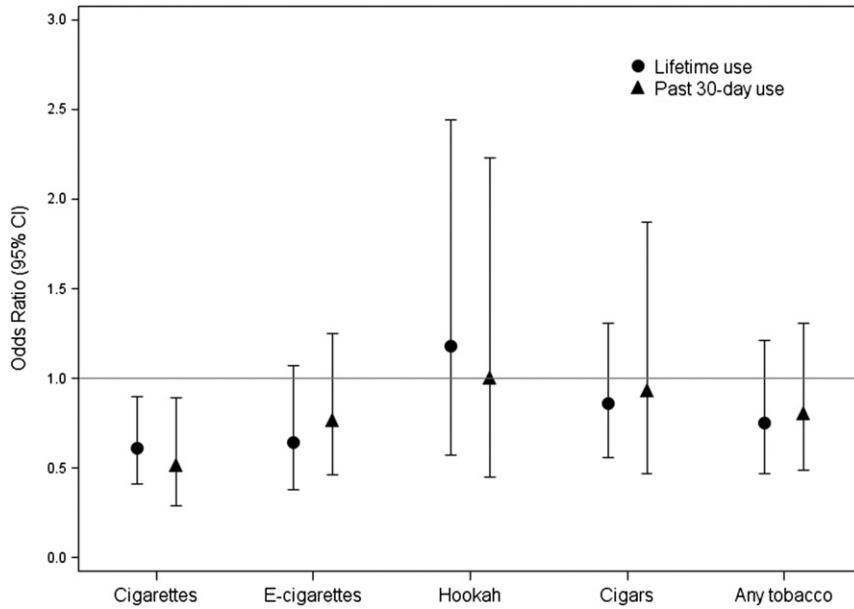


FIGURE 1 Associations of prevalent lifetime and current (last 30-day) use of each tobacco product at baseline with residence in ALA Reduced Tobacco Sales grade A jurisdictions, compared with residence in grade D or F jurisdictions. Models were adjusted for sex, ethnicity, parental education, age at baseline, and for any other tobacco product use at baseline (except for any tobacco product use prevalence, which was compared with never users of any tobacco product) and included a random effect for jurisdiction.

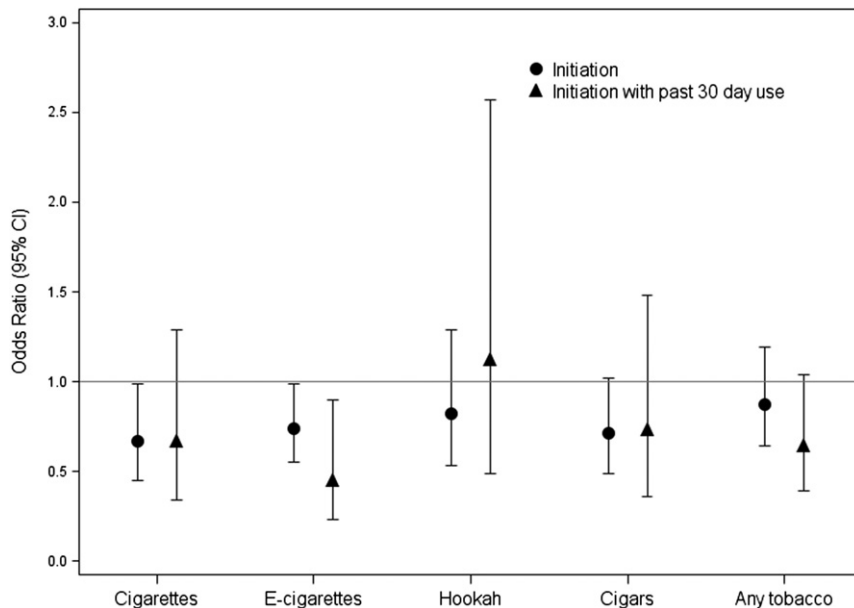


FIGURE 2 Associations of initiation of use of each tobacco product between baseline and follow-up and of initiation and current (last 30-day) use, with residence in ALA Reduced Tobacco Sales grade A jurisdictions, compared with residence in grade D or F jurisdictions. Each model was restricted to nonusers of product at baseline. Models were adjusted for sex, ethnicity, parental education, age at baseline, and for any other tobacco product use at baseline (except for any tobacco product use initiation, which was compared with never users of any tobacco product at either baseline or follow-up) and included a random effect for jurisdiction.

found reduced smoking rates in communities with youth access restrictions, but it was not clear that reduced access mediated the reduction in smoking rates.^{19,23} For example, sustained reductions in adolescent daily smoking rates were observed in Minnesota communities that were randomly assigned to intervention supporting community organizers to develop and promote good TLR ordinances, compared with nonintervention communities.²⁰ However, it was not clear whether the observed reductions in smoking rates were due to youth access restrictions and improved vendor compliance or to other regulatory features resulting from the intervention, such as bans on vending machines and requirements for posted signs reporting age of sale policies, or for storing cigarettes behind the sales counter.¹⁷

Our results are broadly consistent with findings of a comprehensive review in which authors concluded that lower smoking rates occur if local TRL requires yearly compliance checks with effective enforcement.⁷ Our study is 1 of the few that assessed associations of TRL with both prevalence and initiation rates in a prospective assessment of the same participants during an adolescent period of known high incidence of initiation. The prospective cohort design of the study also provided the opportunity to examine the impact of TRL on legal tobacco product use by young adults. The reduced risk of initiation of cigarette and e-cigarette use at follow-up in jurisdictions with better TRL regulation (with effect estimates that were unaffected by adjusting for time since turning 18 at follow-up) suggests that regulation may have lowered initiation rates even after participants reached the age for legal purchase. Although most adult smokers historically first use cigarettes before age 18,¹² in our cohort, rates of initiation of tobacco

product use were substantial, even in well-regulated jurisdictions. For example, in jurisdictions with an A grade, rates of initiation of cigarette and e-cigarette use during the follow-up period were 13.1% and 24.7%, respectively (from Table 1); these high rates of experimentation indicate a need for interventions to reduce initiation in this susceptible age window.

An alternative explanation for the protective effects of better TRL policy is that the associations reflected broadly unfavorable community attitudes toward cigarette use, including other tobacco regulations that affected the use of cigarettes and e-cigarettes to minors. If this were the explanation, we might expect to have seen associations with the other ALA tobacco grades relating to, for example, smoke-free housing, smoke-free outdoor air, or the overall tobacco grade in a jurisdiction. However, protective effects only of the TRL grade were observed.

Lower odds of cigar use initiation associated with better TRL regulation, although not statistically significant, were similar in magnitude to reductions in odds of the initiation of cigarettes and e-cigarettes. However, living in a jurisdiction with stronger regulation was not protective for baseline prevalence or subsequent initiation of hookah use. Sales of hookah paraphernalia often occur in specialty shops and hookah bars where cigarettes may not have been sold²⁴ and therefore may not consistently have been subjected to the same rigorous compliance checks as traditional cigarette vendors. E-cigarettes are commonly sold at locations that also sell cigarettes that would have been subject to TRL regulation, and a state law passed in 2010 made it illegal to sell e-cigarettes to minors.²⁵ However, e-cigarettes are also sold in specialty “vape” shops,²⁶ and at

the time of the study, e-cigarettes were not specifically categorized as a tobacco product.²⁷ Therefore, vape shops were not required by state law to obtain a tobacco vendor license if they were not selling other tobacco products. If strong TRL regulation was responsible for the lower rates of e-cigarette use in A-grade jurisdictions, it is possible that similar TRL requirements for vape shops would have resulted in larger protective effects.

The US Food and Drug Administration (FDA) has contracts with regulators in most states to restrict youth tobacco access and also conducts its own inspections and hires third parties to conduct compliance checks.²⁸ However, the frequency of compliance checks is generally low, because of resource limitations, and penalties for violation of the law vary widely between states. California, for example, which has been a leader in tobacco control, annually inspected, on average, only 7% of tobacco retailers in 2016.^{9,10} If a high rate of compliance checks, accompanied by enforcement, is necessary to reduce youth smoking as our results suggest, then strong local TRL ordinances may be an important option to reduce teen tobacco product use through access restriction.^{10,29,30}

The study has some limitations. The ALA criteria for an A grade covered a relatively broad spectrum of TRL policy relevant to youth access, including larger fees, compliance access, and penalties if vendors violated the law. Identifying the possible effects of specific features of the TRL policy was not possible. A minimum proportion of vendors actually undergoing compliance checks was not specified, and it was not possible to assess the effect of the proportion of vendors visited. In addition, the “deeming rule” that defined e-cigarettes and hookah as tobacco products means that TRL

will be required of all vendors of these products.³¹ The recent increase in the legal age of tobacco product purchase to 21 years in California, passed after data collection for this study was completed, means that the associations of TRL policy with use during the transition to legal age of purchase may no longer be applicable to California. However, the results may broadly be generalizable to local jurisdictions in states with a legal purchase age of 18 years, with the exception of a few states that have prohibited local jurisdictions from enacting more stringent local regulation.³² The increase of poorly regulated e-cigarette Internet vendors, a relatively new way for minors to obtain tobacco products illegally at the time of data collection, may limit the future impact of TRL as a regulatory tool.³³ Future follow-up of this cohort is warranted to determine the persistence of associations with strong youth TRL and to examine longitudinally potential mediating factors, such as social characteristics of neighborhoods and communities and individuals’ changing tobacco social environment over time. There were also other potential confounders or mediators of TRL effects, such as differences in school-level tobacco prevention programs or number of tobacco outlets by jurisdiction, that were not available to study.

CONCLUSIONS

The results suggest that a strong local TRL ordinance that provides adequate resources to fund regular compliance checks and enforcement may result in large reductions in the use of cigarettes and may also result in reduced e-cigarette use. The benefits of these policies may extend into early adult life. The study also suggests that the success of future FDA regulation to reduce youth cigarette and alternative tobacco product access and use, under rules

deeming these products to be subject to FDA regulation,³¹ may depend on the availability of resources for universal annual compliance checks and enforcement targeted to both traditional and alternative tobacco product vendors. Continued monitoring is needed to assess the impact on the effectiveness of TRL

policy within the rapidly evolving tobacco product patterns of use, new national regulation, and poorly regulated Internet sales.

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April Roeseler provided useful comments on the development of the article.

ABBREVIATIONS

ALA: American Lung Association
CI: confidence interval
e-cigarette: electronic cigarette
FDA: US Food and Drug Administration
OR: odds ratio
TRL: tobacco retail licensing

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Surgeon General's Advisory on E-cigarette Use Among Youth

*I, Surgeon General of the United States Public Health Service, VADM Jerome Adams, am emphasizing the importance of protecting our children from a lifetime of nicotine addiction and associated health risks by immediately addressing the epidemic of youth e-cigarette use. The recent surge in e-cigarette use among youth, which has been fueled by new types of e-cigarettes that have recently entered the market, is a cause for great concern. **We must take action now to protect the health of our nation's young people.***

KNOW THE RISKS. TAKE ACTION. PROTECT OUR KIDS.

The E-cigarette Epidemic Among Youth

Considerable progress has been made in reducing cigarette smoking among our nation's youth.¹ However, the tobacco product landscape continues to evolve to include a variety of tobacco products, including smoked, smokeless, and electronic products, such as e-cigarettes.² E-cigarettes are designed to deliver nicotine, flavorings, and other additives to the user via an inhaled aerosol.²

E-cigarettes entered the U.S. marketplace around 2007, and since 2014, they have been the most commonly used tobacco product among U.S. youth.² E-cigarette use among U.S. middle and high school students increased 900% during 2011-2015, before declining for the first time during 2015-2017.³ However, current e-cigarette use increased 78% among high school students during the past year, from 11.7% in 2017 to 20.8% in 2018.⁴ In 2018, more than 3.6 million U.S. youth, including 1 in 5 high school students and 1 in 20 middle school students, currently use e-cigarettes.⁴

E-cigarette aerosol is not harmless.² Most e-cigarettes contain nicotine – the addictive drug in regular cigarettes, cigars, and other tobacco products.² Nicotine exposure during adolescence can harm the developing brain – which continues to develop until about age 25.² Nicotine exposure during adolescence can impact learning, memory, and attention.^{1,2} Using nicotine in adolescence can also increase risk for future addiction to other drugs.^{1,2} In addition to nicotine, the aerosol that users inhale and exhale from e-cigarettes can potentially expose both themselves and bystanders to other harmful substances, including heavy metals, volatile organic compounds, and ultrafine particles that can be inhaled deeply into the lungs.²

Many e-cigarettes also come in kid-friendly flavors. In addition to making e-cigarettes more appealing to young people,⁵ some of the chemicals used to make certain flavors may also have health risks.² E-cigarettes can also be used to deliver other drugs, including marijuana.² In 2016, one-third of U.S. middle and high school students who ever used e-cigarettes had used marijuana in e-cigarettes.⁶

For adults, e-cigarettes may have the potential to reduce risk for current smokers if they completely transition from cigarettes to e-cigarettes; however, a majority of adults who use e-cigarettes also smoke cigarettes.⁷ For youth, the use of multiple tobacco products puts youth at even greater risk for addiction and tobacco-related harms.^{1,2} Moreover, a 2018 National Academy of Sciences, Engineering, and Medicine report concluded that there was moderate evidence that e-cigarette use increases the frequency and intensity of cigarette smoking in the future.⁷ But any e-cigarette use among young people is unsafe, even if they do not progress to future cigarette smoking.²

E-cigarettes Come in Many Shapes and Sizes

E-cigarettes are a rapidly changing product class, and are known by many different names, including “e-cigs,” “e-hookahs,” “mods,” and “vape pens.”² Recently, a new type of e-cigarette has become increasingly popular among our nation's youth due to its minimal exhaled aerosol, reduced odor, and small size, making it easy to conceal.⁸ Many of these new e-cigarettes look like a USB flash drive, among other shapes. One of the most commonly sold

USB flash drive shaped e-cigarettes is JUUL, which experienced a 600% surge in sales during 2016-2017, giving it the greatest market share of any e-cigarette in the U.S. by the end of 2017.⁹ Other companies are now also starting to sell e-cigarettes that look like USB flash drives.

All JUUL e-cigarettes have a high level of nicotine. A typical JUUL cartridge, or “pod,” contains about as much nicotine as a pack of 20 regular cigarettes.¹⁰ These products also use nicotine salts, which allow particularly high levels of nicotine to be inhaled more easily and with less irritation than the free-base nicotine that has traditionally been used in tobacco products, including e-cigarettes. This is of particular concern for young people, because it could make it easier for them to initiate the use of nicotine through these products and also could make it easier to progress to regular e-cigarette use and nicotine dependence. However, despite these risks, approximately two-thirds of JUUL users aged 15-24 do not know that JUUL always contains nicotine.¹¹

You Can Take Action

We must take aggressive steps to protect our children from these highly potent products that risk exposing a new generation of young people to nicotine.^{2,7} The bad news is that e-cigarette use has become an epidemic among our nation’s young people. However, the good news is that we know what works to effectively protect our kids from all forms of tobacco product use, including e-cigarettes.^{1,2,12} We must now apply these strategies to e-cigarettes, including USB flash drive shaped products such as JUUL. To achieve success, we must work together, aligning and coordinating efforts across both old and new partners at the national, state, and local levels. Everyone can play an important role in protecting our nation’s young people from the risks of e-cigarettes.

Information for Parents

- **You have an important role to play in addressing this public health epidemic.**
- Learn about the different shapes and types of e-cigarettes and the risks of all forms of e-cigarette use for young people at <https://e-cigarettes.surgeongeneral.gov/>.
- Set a good example by being tobacco-free. If you use tobacco products, it’s never too late to quit. Talk to a healthcare professional about quitting all forms of tobacco product use. For free help, visit smokefree.gov or call 1-800-QUIT-NOW.
- Adopt tobacco-free rules, including e-cigarettes, in your home and vehicle.
- Talk to your child or teen about why e-cigarettes are harmful for them. It’s never too late.
- Get the Surgeon General’s tip sheet for parents, [Talk With Your Teen About E-cigarettes](https://e-cigarettes.surgeongeneral.gov/), at <https://e-cigarettes.surgeongeneral.gov/>. Start the conversation early with children about why e-cigarettes, including JUUL, are harmful for them.
- Let your child know that you want them to stay away from all tobacco products, including e-cigarettes, because they are not safe for them. Seek help and get involved.
 - Set up an appointment with your child’s health care provider so that they can hear from a medical professional about the health risks of tobacco products, including e-cigarettes.
 - Speak with your child’s teacher and school administrator about enforcement of tobacco-free school policies and tobacco prevention curriculum.
 - Encourage your child to learn the facts and get tips for quitting tobacco products at Teen.smokefree.gov.

Information for Teachers

- **You have an important role to play in addressing this public health epidemic.**
- Learn about the different shapes and types of e-cigarettes and the risks of all forms of e-cigarette use, including JUUL, for young people at <https://e-cigarettes.surgeongeneral.gov/>.
- Develop, implement, and enforce tobacco-free school policies and prevention programs that are free from tobacco industry influence, and that address all types of tobacco products, including e-cigarettes.

- Engage your students in discussions about the dangers of e-cigarette use. To help you, the Food and Drug Administration (FDA), and Scholastic, developed free resources for teachers. These materials can be found at www.scholastic.com/youthvapingrisks.

Information for Health Professionals

- **You have an important role to play in addressing this public health epidemic.**
- Learn about the different shapes and types of e-cigarettes and the risks of all forms of e-cigarette use, including JUUL, for young people at <https://e-cigarettes.surgeongeneral.gov/>.
- Ask about e-cigarettes, including small, discreet devices such as JUUL, when screening patients for the use of any tobacco products.
- Educate patients about the risks of all forms of tobacco product use, including e-cigarettes, for young people.
- Encourage patients to quit. For free help, patients can visit smokefree.gov or call [1-800-QUIT-NOW](tel:1-800-QUIT-NOW).

Information for States, Communities, Tribes, and Territories

- **You have an important role to play in addressing this public health epidemic.**
- Implement evidence-based population-level strategies to reduce e-cigarette use among young people, such as including e-cigarettes in smoke-free indoor air policies, restricting young peoples' access to e-cigarettes in retail settings, licensing retailers, implementing price policies, and developing educational initiatives targeting young people.
- Implement strategies to curb e-cigarette advertising and marketing that are appealing to young people.
- Implement strategies to reduce access to flavored tobacco products by young people.

KNOW THE RISKS. TAKE ACTION. PROTECT OUR KIDS.

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Attachment A: Clackamas County Tobacco Retail Oregon Health Authority Inspection Results

OHA Enforcement Inspection

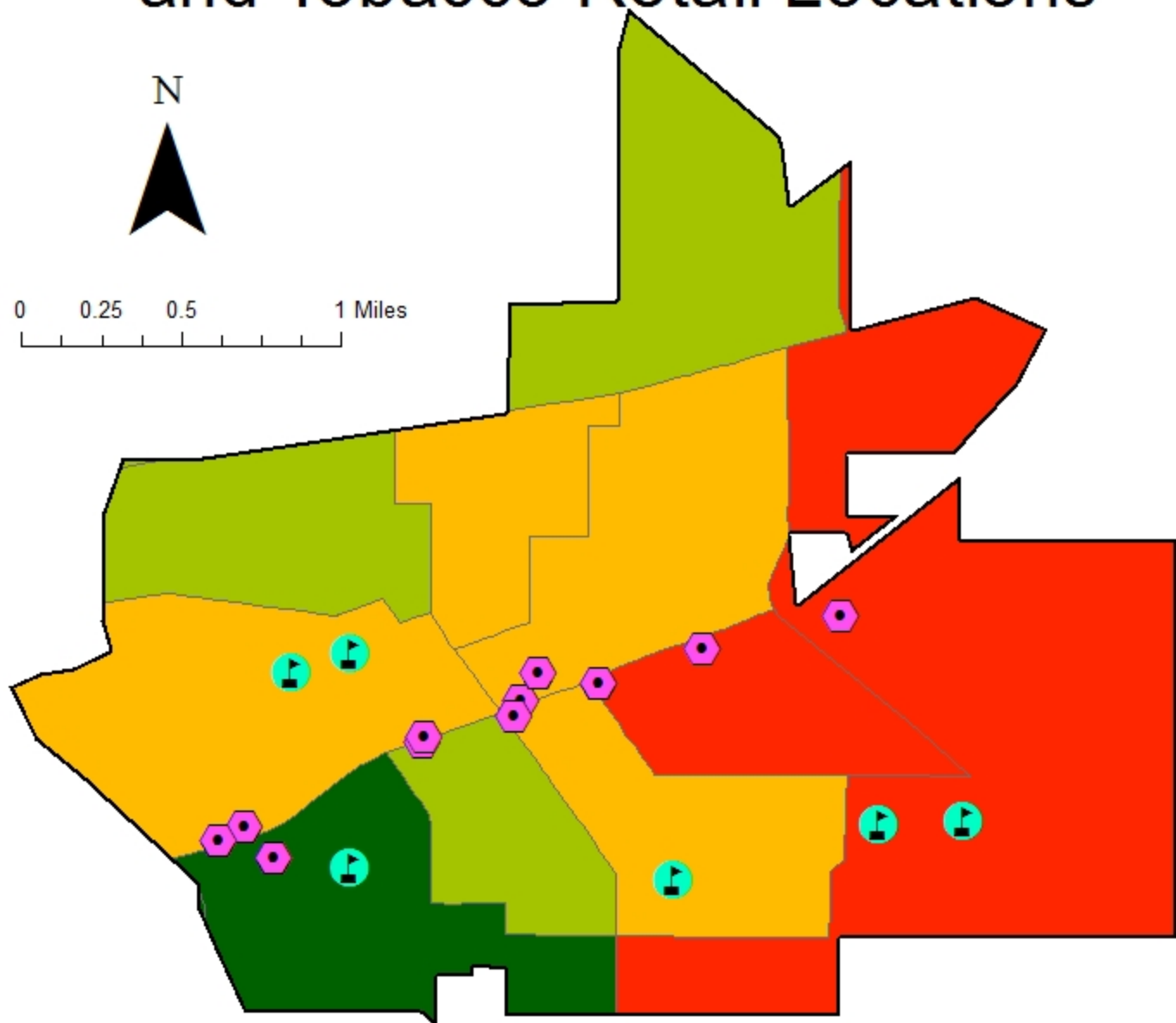
Unannounced inspections are conducted by retired Oregon State Police (OSP) troopers as OSP employees in partnership with a “minor decoy” inspector under 21 years. Inspections are conducted annually to a random sample of known retailers statewide. A store clerk may be cited for Endangering the Welfare of a Minor and fined between \$200 and \$2,000. Additional civil penalties may be assessed to the store owner.

	City	# Tobacco Retailers ¹	# retailers inspected 2017-2018	# Illegal sales	# Tobacco Retailers within 1000' of schools	
Incorporated	Canby	16	5	0	0	
	Estacada	10	5	0	2	
	Gladstone	9	1	0	0	
	Happy Valley	13	5	1	0	
	Lake Oswego	23	5	1	3	
	Milwaukie	46	9	1	2	
	Molalla	10	2	0	0	
	Oregon City	40	9	2	1	
	Sandy	20	6	1	3	
	Tualatin	No tobacco retailers in Clackamas County				
	West Linn	15	5	1	0	
	Wilsonville	17	6	1	4	
Unincorporated	Beavercreek	3	0	NA		
	Boring	6	3	0		
	Brightwood	1	0	NA		
	Clackamas	19	5	1		
	Colton	2	0	NA		
	Damascus	5	3	0		
	Eaglecreek	1	0	NA		
	Govt Camp	3	1	0		
	Mulino	1	1	0		
	Oak Grove	1	1	0		
	Portland	21	5	1		
	Rhododendron	1	1	1		
	Welches	3	1	0		
	TOTAL	287	79	11	15	

- Only 34 percent of tobacco retailers in Clackamas County were inspected in 2017 for compliance with the minimum legal sales age.
- Rate of illegal sales to minors is 13.9%
- No attempts were made to purchase e-cigarettes.

¹ Number of *known* tobacco retailers, including “adult only” businesses is 287 (updated 11-19-18)





Canby: Youth Under 21 and Tobacco Retail Locations



Legend

-  Tobacco Retailers
-  Schools
-  Canby City Limits

Population Under 21

-  100 - 250
-  251 - 500
-  501 - 750
-  751 - 1000

Approximately 5,700 youth under the age of 21 live in the Canby area. In this same area, there are 11 tobacco retail locations.

Clackamas County Public Health Division, Data Source: ACS 5 year estimate 2012-2016, and Oregon Department of Education



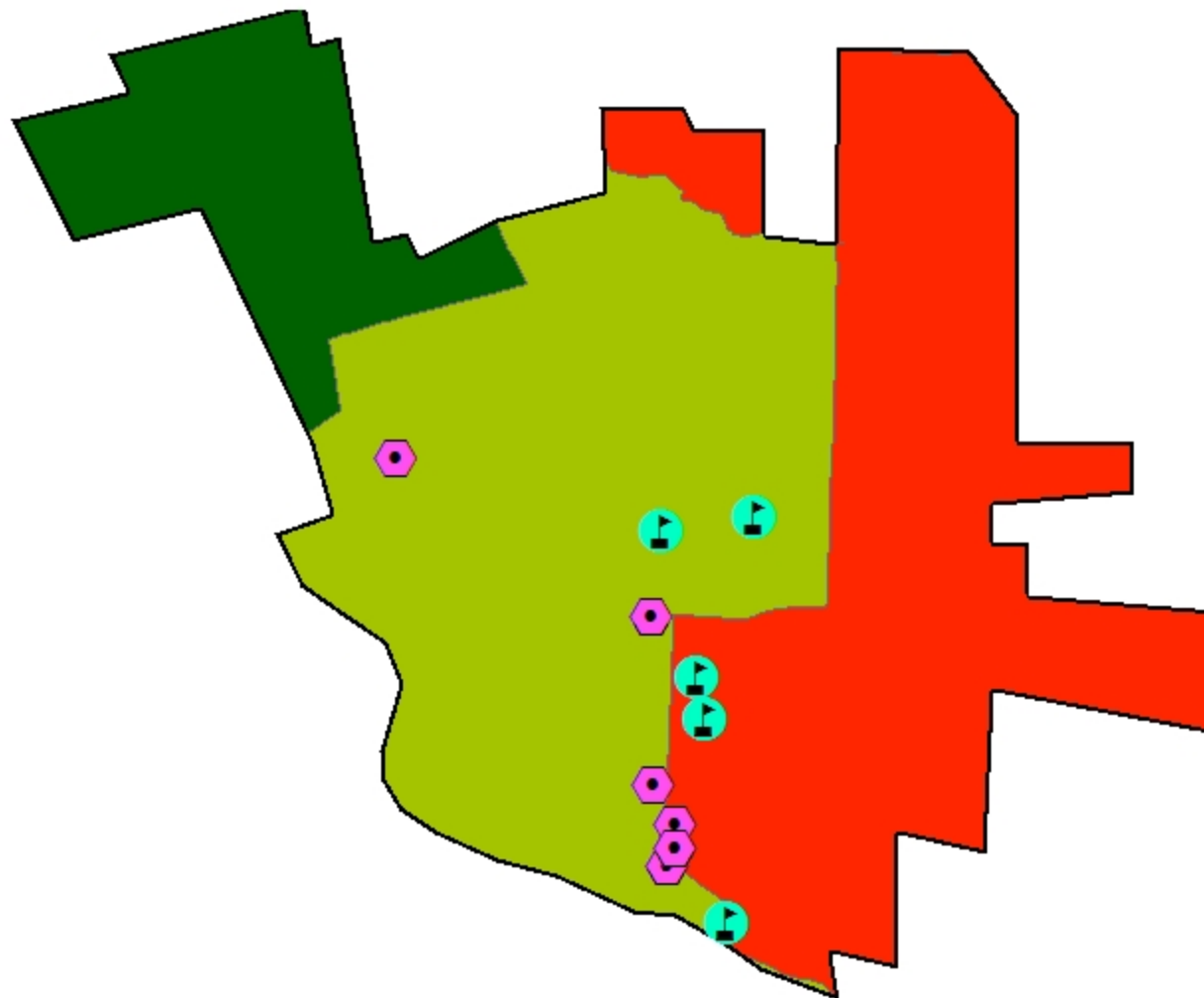
Public Health

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Estacada: Youth Under 21 and Tobacco Retail Locations







N

Legend

-  Schools
-  Tobacco Retailers
-  Estacada City Limits

Population Under 21

-  0 - 250
-  251 - 500
-  501 - 750
-  751 - 1000

Approximately 2,000 youth under the age of 21 live in the Estacada area. In this same area, there are 6 tobacco retail locations.

Clackamas County Public Health Division
Data Source: ACS 5 year estimate 2012-2016
Oregon Department of Education, and
Clackamas County Public Health Division

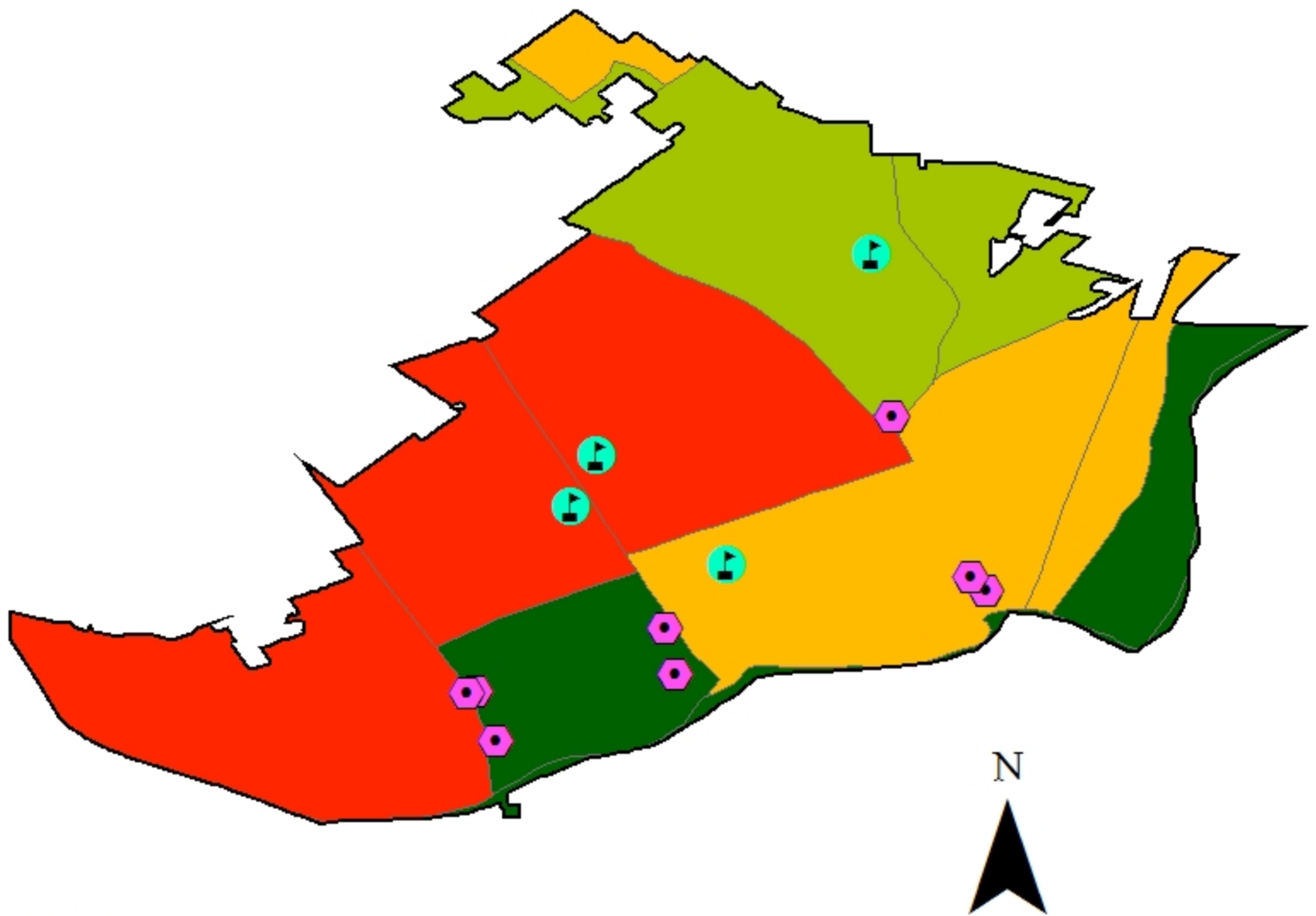
0 0.3 0.6 1.2 Miles

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Public Health





Gladstone: Youth Under 21 and Tobacco Retail Locations



Legend

-  Tobacco Retailers
-  Schools
-  Gladstone City Limits

Population Under 21

-  100 - 250
-  251 - 500
-  501 - 750
-  751 - 1000

Approximately 4,800 youth under the age of 21 live in the Gladstone area. In this same area, there are 8 tobacco retail locations.

Clackamas County Public Health Division, Data Source: ACS 5 year estimate 2012-2016, and Oregon Department of Education

0 0.25 0.5 1 Miles



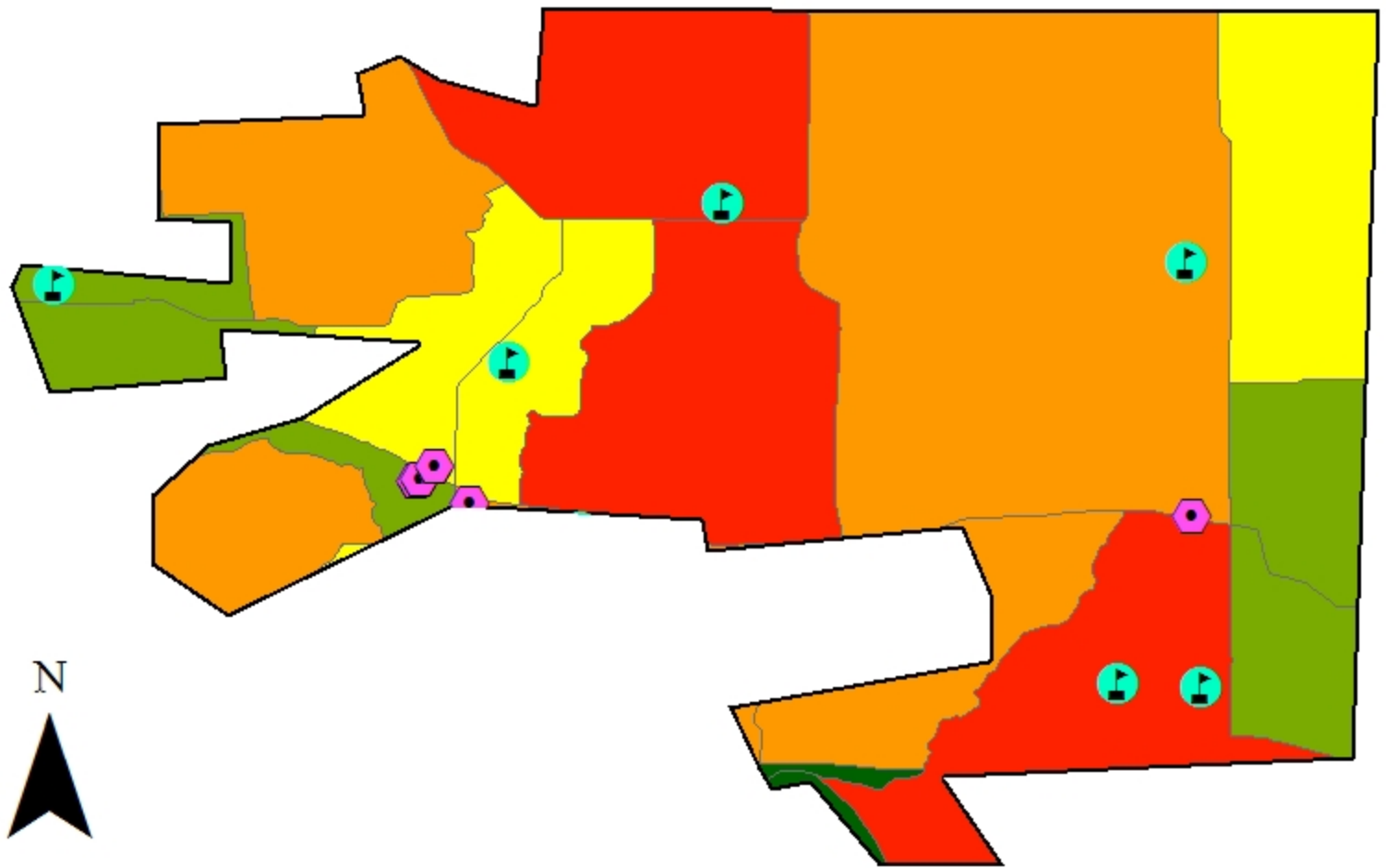
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Happy Valley: Youth Under 21 and Tobacco Retail Locations

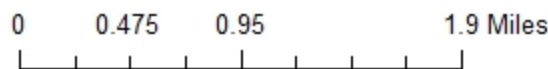


Legend

-  Tobacco Retailers
-  Schools
-  Happy Valley City Limit

Population Under 21

-  0 - 250
-  251 - 500
-  501 - 750
-  751 - 1000
-  1001 - 2150



Approximately 15,000 youth under the age of 21 live in the Happy Valley area. In this same area, there are 5 tobacco retail locations.

Clackamas County Public Health Division, Data Source: ACS 5 year estimate 2012-2016, and Oregon Department of Education



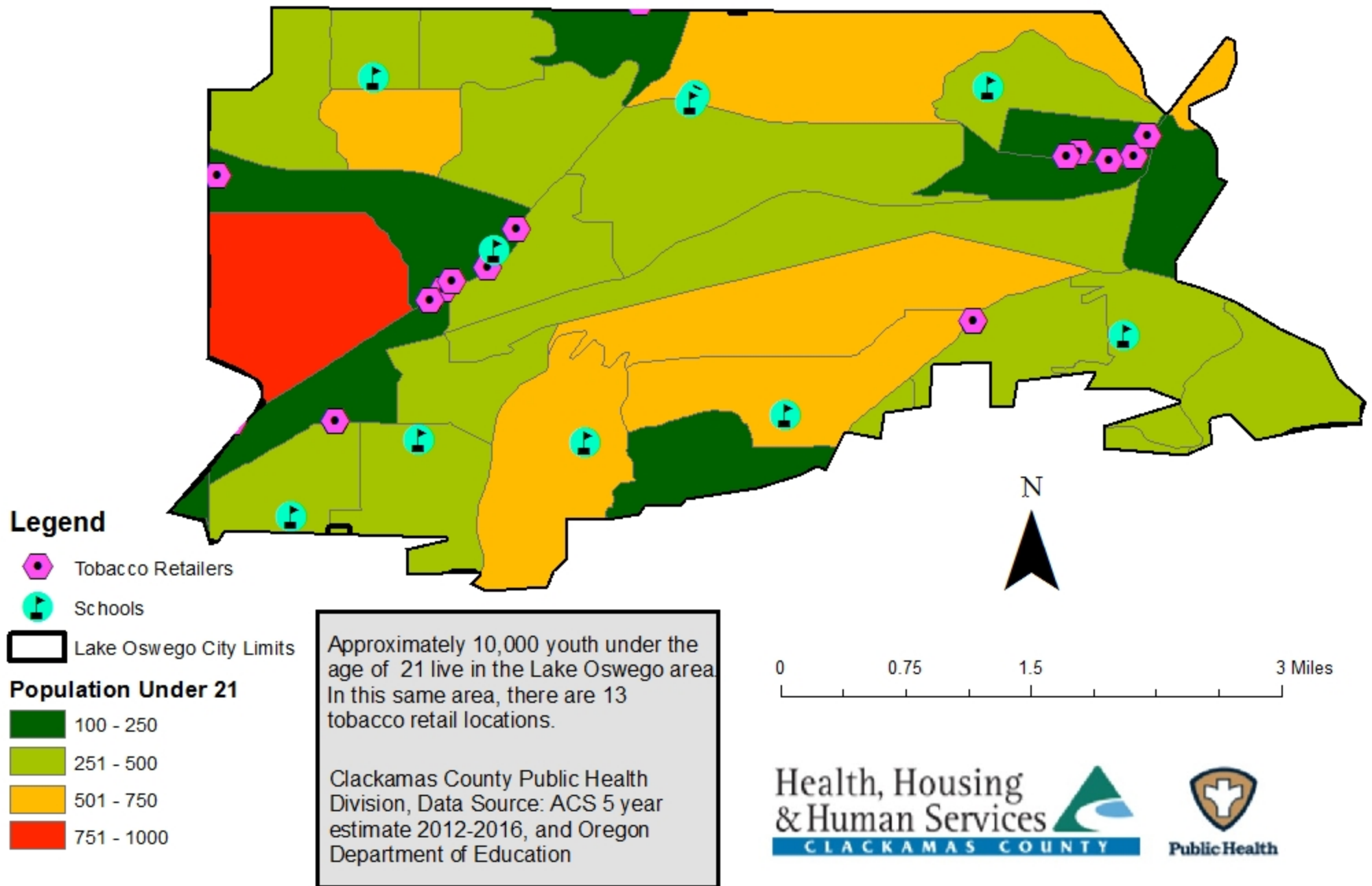
Public Health

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& Human Services

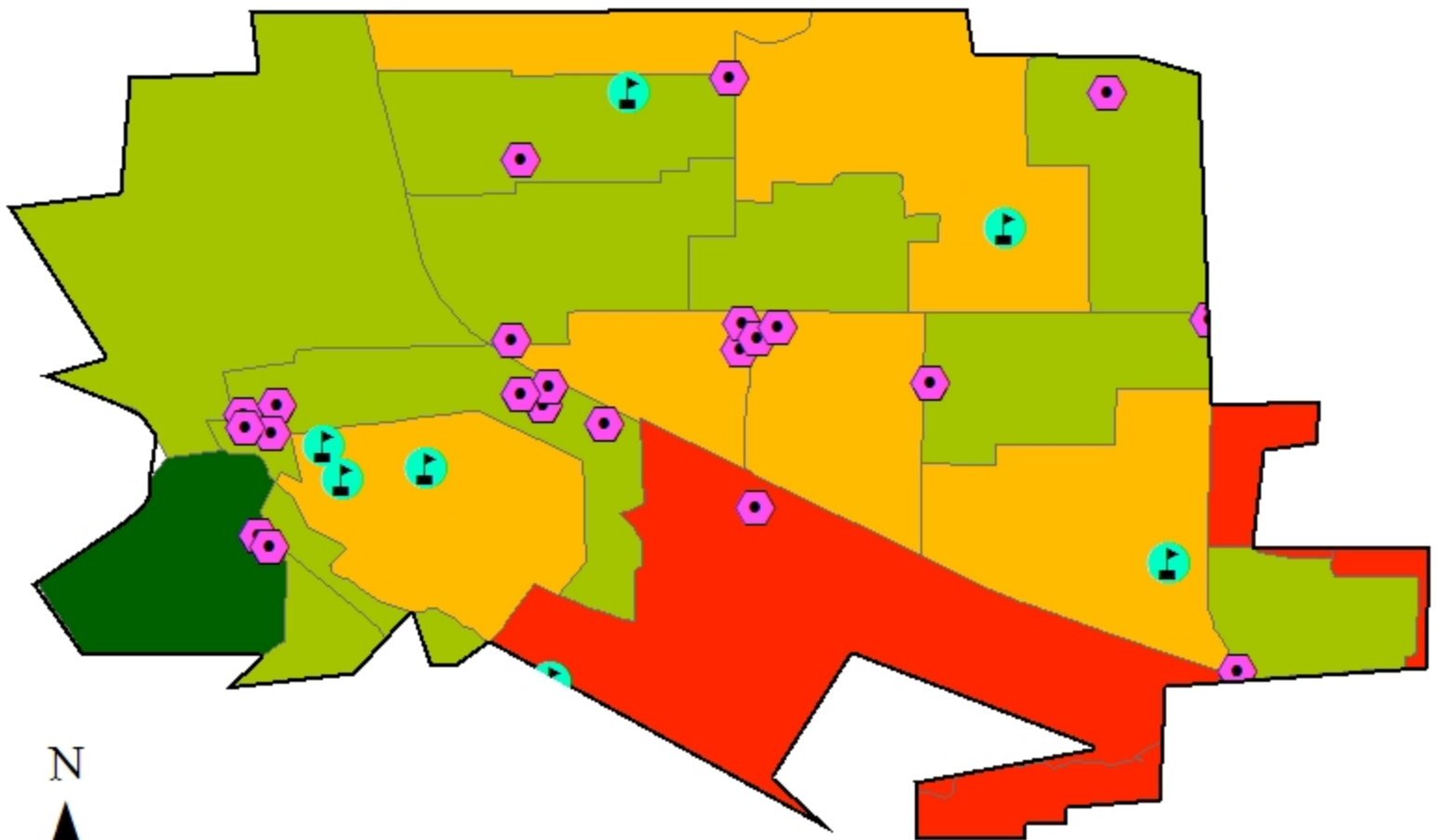
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Lake Oswego: Youth Under 21 and Tobacco Retail Locations



Milwaukie: Youth Under 21 and Tobacco Retail Locations



Legend

0 0.3 0.6 1.2 Miles

Milwaukie City Limits

Schools

Tobacco Retailers

Population Under 21

0 - 150
 151 - 300
 301 - 450
 451 - 600

Approximately 6,000 youth under the age of 21 live in the Milwaukie area. In this same area, there are 22 tobacco retail locations.

Clackamas County Public Health Division, Data Source: ACS 5 year estimate 2012-2016, and Oregon Department of Education



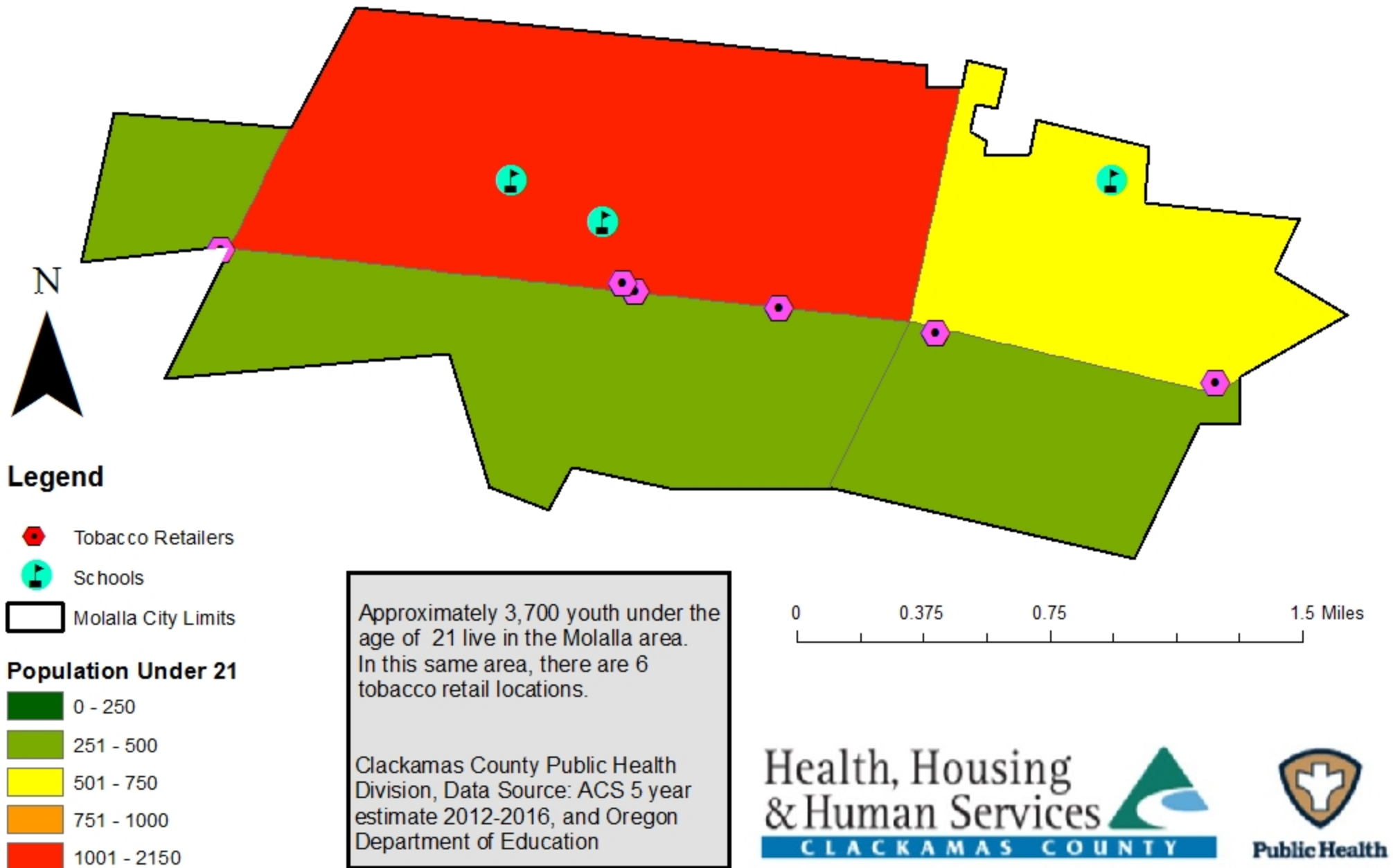
Public Health

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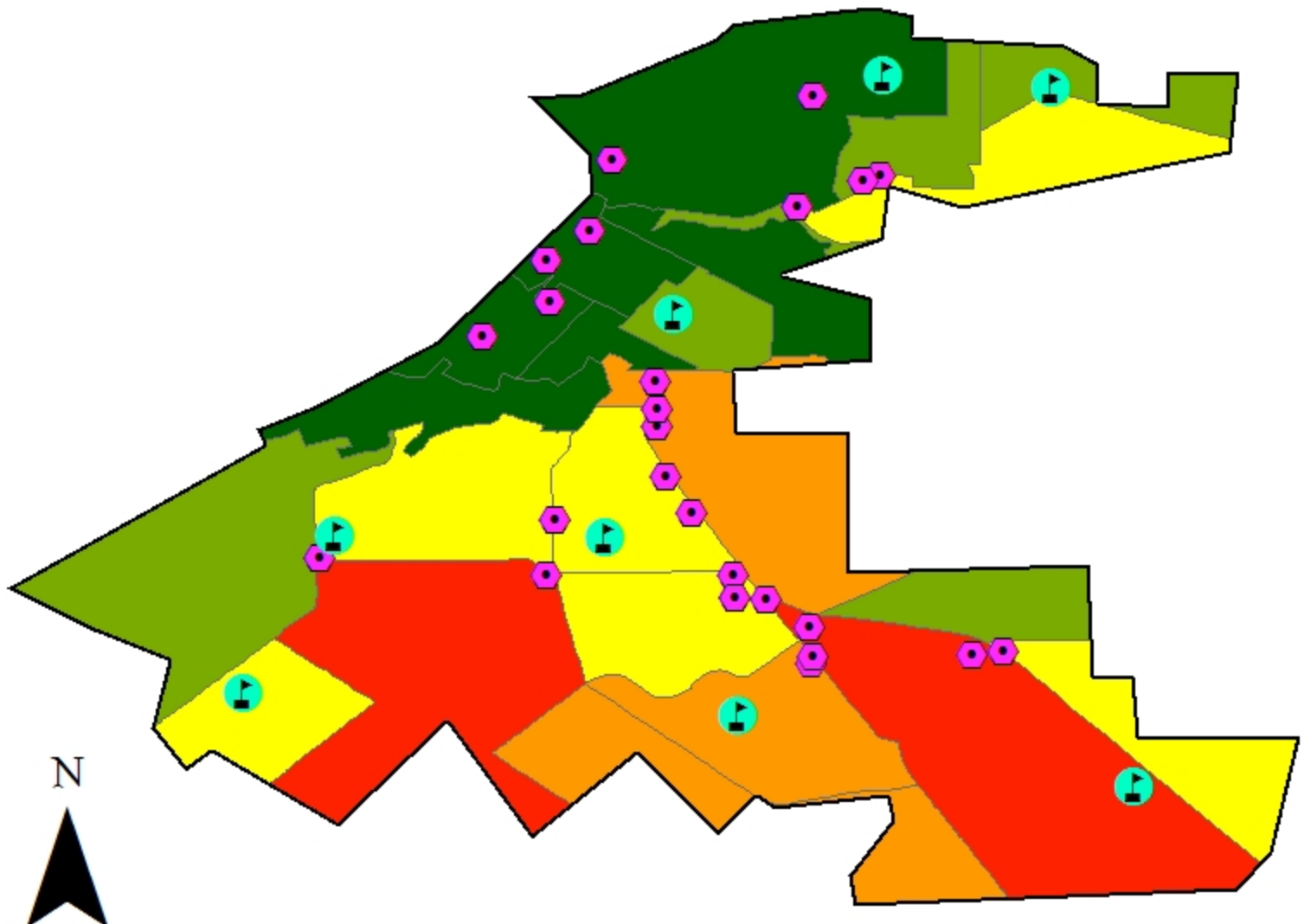
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Molalla: Youth Under 21 and Tobacco Retail Locations



Oregon City: Youth Under 21 and Tobacco Retail Locations



Legend

-  Tobacco Retailers
-  Schools
-  Oregon City Limits
- Population Under 21**
-  75 - 250
-  251 - 500
-  501 - 750
-  751 - 1000
-  1001 - 2150

0 0.5 1 2 Miles

Approximately 11,000 youth under the age of 21 live in the Oregon City area. In this same area, there are 25 tobacco retail locations.

Clackamas County Public Health
Division: Data Source: ACS 5 year
estimate 2012-2016, and Oregon
Department of Education.

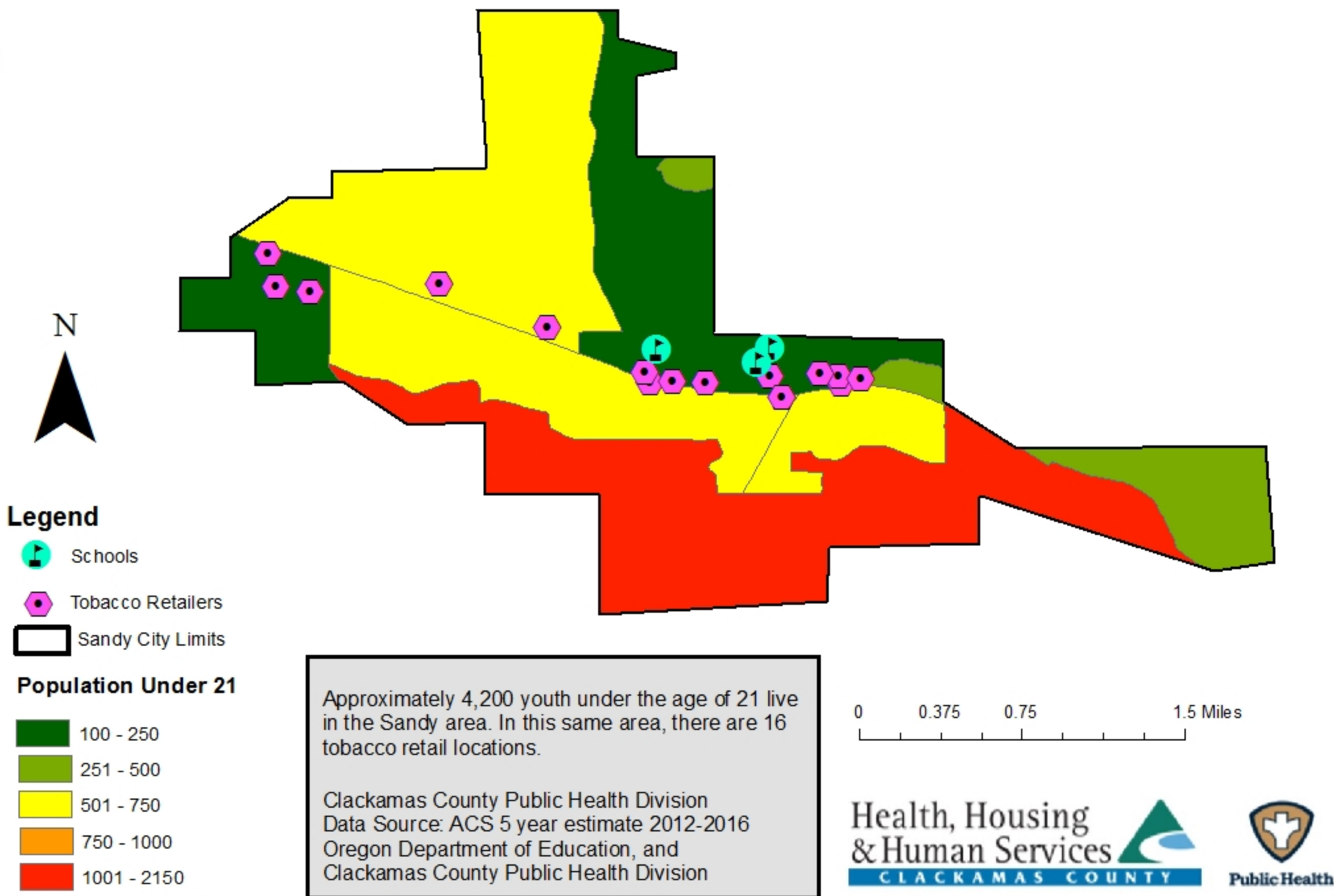


Public Health

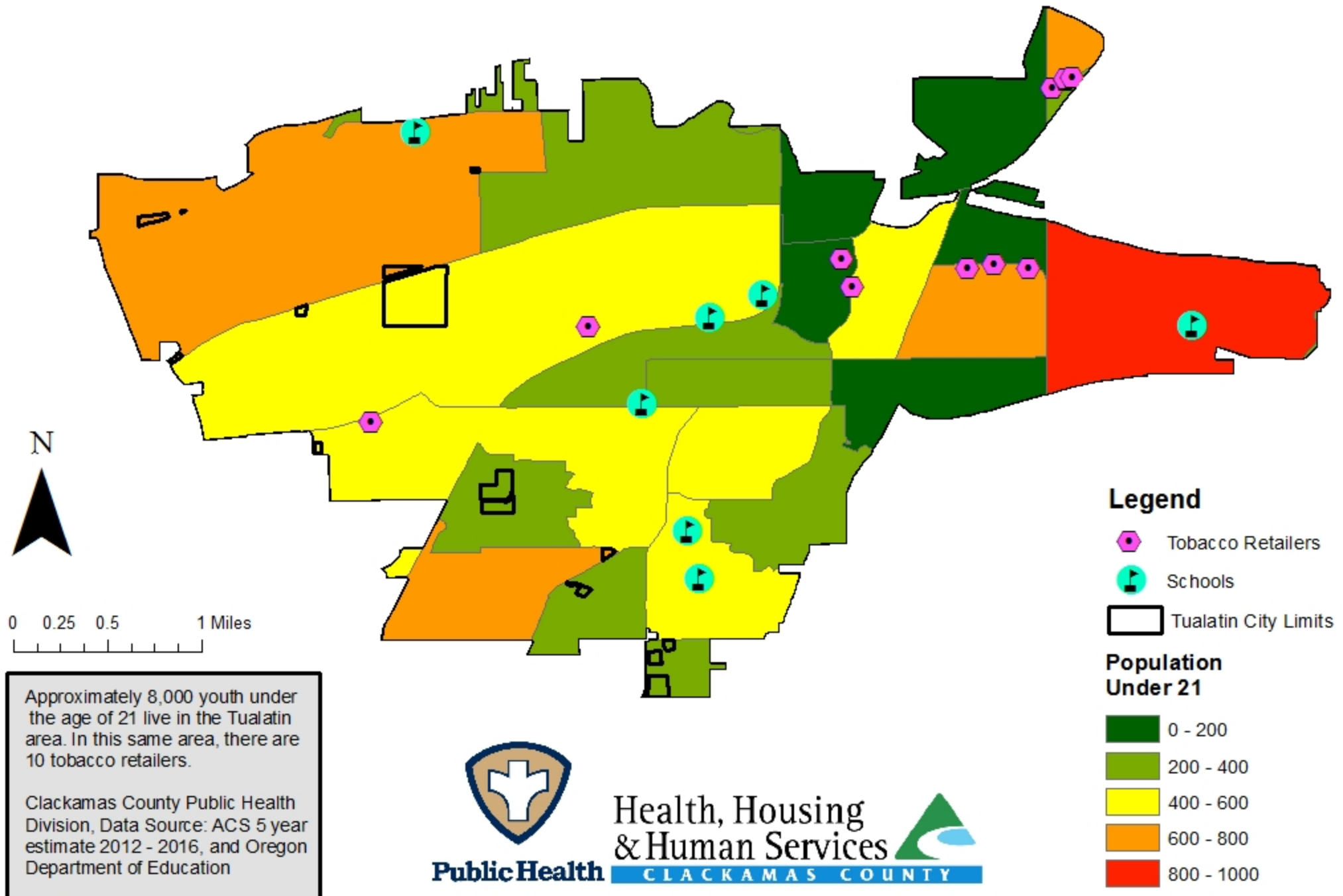
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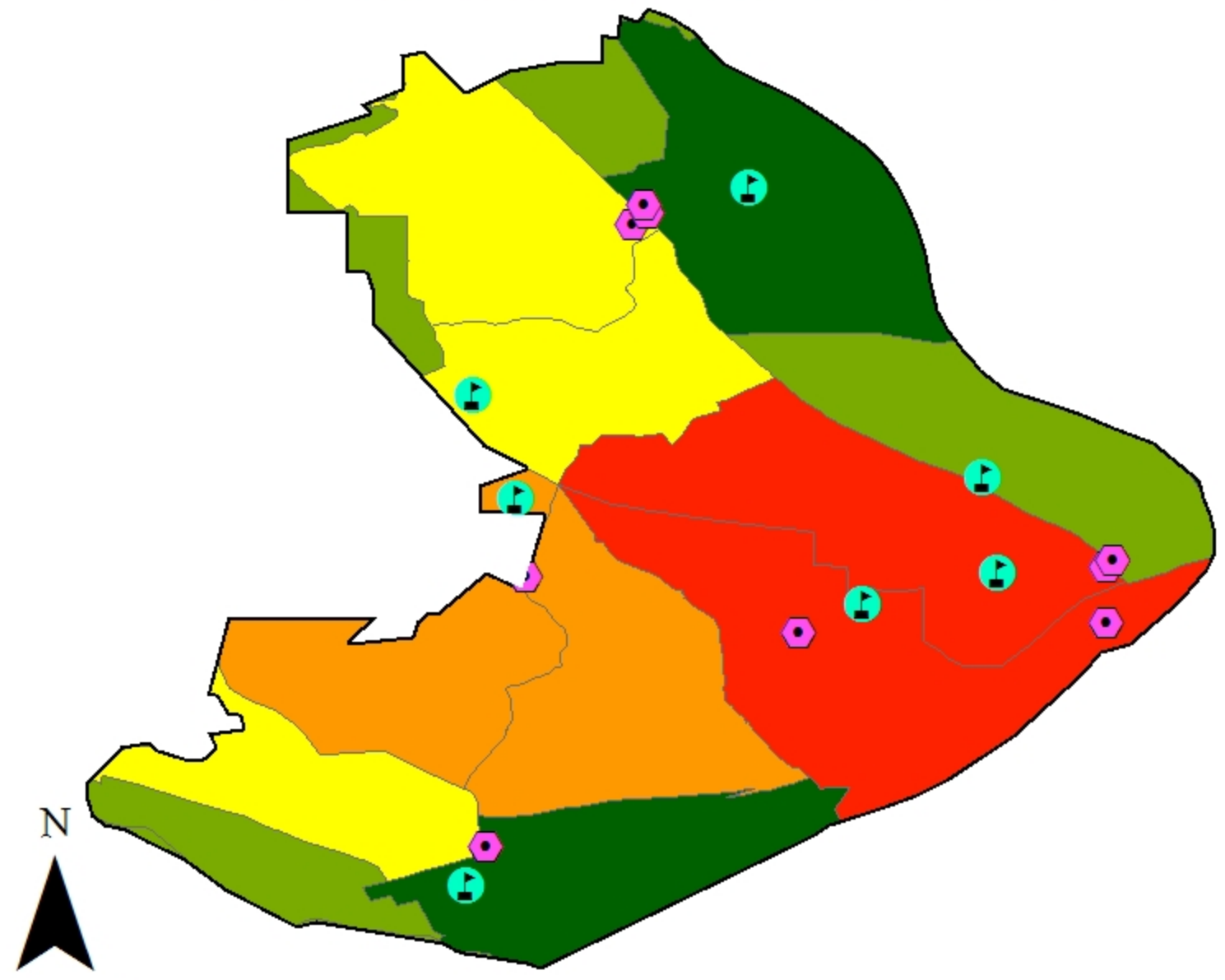
Sandy: Youth Under 21 and Tobacco Retail Locations






Tualatin Youth Under 21, Schools, and Tobacco Retail Locations








West Linn: Youth Under 21 and Tobacco Retail Locations



Legend

-  Tobacco Retailers
-  Schools
-  West Linn City Limit

Population Under 21

-  100 - 250
-  251 - 500
-  501 - 750
-  751 - 1000
-  1001 - 2150

Approximately 7,100 youth under the age of 21 live in the West Linn area. In this same area, there are 9 tobacco retail locations.

Clackamas County Public Health Division, Data Source: ACS 5 year estimate 2012-2016, and Oregon Department of Education

0 0.375 0.75 1.5 Miles



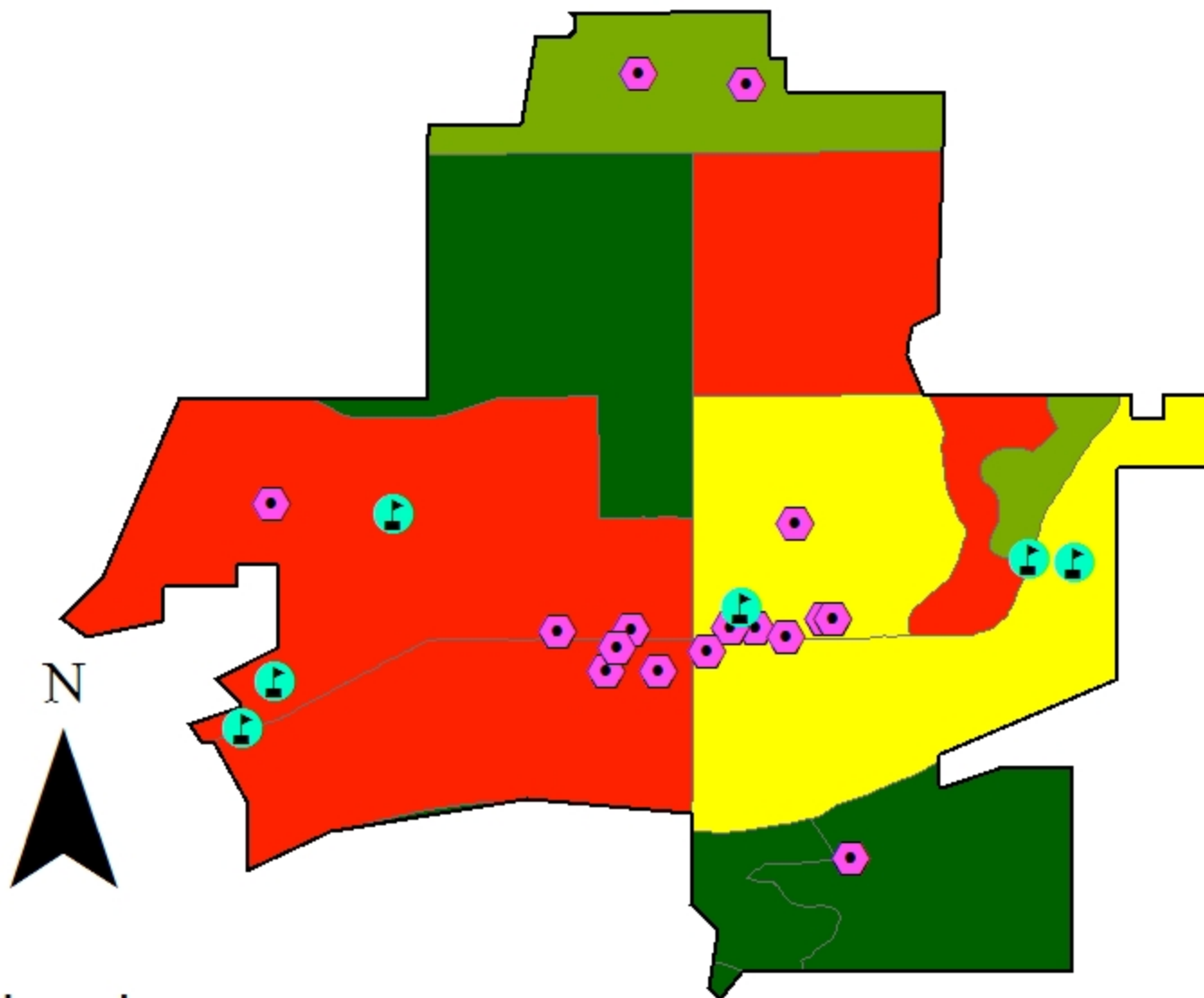
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CLACKAMAS COUNTY



Wilsonville: Youth Under 21 and Tobacco Retail Locations



Legend

-  Tobacco Retailers
-  Schools
-  Wilsonville City Limits
- Population Under 21**
-  0 - 250
-  251 - 500
-  501 - 750
-  751 - 1000
-  1001 - 2150

0 0.4 0.8 1.6 Miles



Approximately 5,800 youth under the age of 21 live in the Wilsonville area. In this same area, there are 16 tobacco retail locations. 2 of the tobacco retailers in Wilsonville are not located in Clackamas County.

Clackamas County Public Health Division: Data Source: ACS 5 year estimate 2012-2016, and Oregon Department of Education.



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DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

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

January 24, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of the Second Amendment to the Disposition Agreement with Bottling Group, LLC

Purpose/Outcome	To amend the existing Disposition Agreement with Bottling Group, LLC
Dollar Amount and Fiscal Impact	No change
Funding Source	N/A.
Duration	The amendment will extend the due diligence period by 60 days
Previous Board Action/Review	Discussed with Board at Executive Session on January 8, 2019
Strategic Plan Alignment	Build public trust through good government
Contact Person	Dave Queener, Development Agency Program Supervisor, 503-742-4322

The Agency has a Disposition Agreement with Bottling Group, LLC associated with the purchase of a portion of the Clackamas Industrial Area Opportunity (CIAO) site. Their current due diligence period expired on January 19, 2019. The Agency and Bottling Group have been working to finalize property line adjustments with an adjacent property owner, which are necessary to maximize development of the site and for planned road improvements. The property line adjustments should be completed within 45 days.

Bottling Group has requested the due diligence period be extended in order to finalize the property line adjustments prior to closing.

This second amendment will extend the due diligence period by 60 days.

County Counsel has reviewed and approved the proposed amendment to the agreement.

RECOMMENDATION

Staff respectfully recommends that the Board, as the governing body of the Clackamas County Development Agency, execute this Second Amendment to the Disposition Agreement with Bottling Group, LLC

Respectfully submitted,

David Queener, Program Supervisor
Development Agency

SECOND AMENDMENT TO DISPOSITION AGREEMENT

THIS SECOND AMENDMENT TO DISPOSITION AGREEMENT (“Amendment”) is entered into effective as of January 24, 2019, between **CLACKAMAS COUNTY DEVELOPMENT AGENCY**, the Urban Renewal Agency of Clackamas County, a corporate body politic (“**Agency**”), and **BOTTLING GROUP, LLC**, a Delaware limited liability company (“**Developer**”).

RECITALS

A. Agency and Developer are parties to that certain Disposition Agreement dated effective as of May 24, 2018 and First Amendment to Disposition Agreement dated effective November 20, 2018 (collectively the “**Disposition Agreement**”), concerning approximately 12 acres of land located on Capps Road west of SE 120th Avenue, Clackamas County, Oregon, as more particularly described in the Disposition Agreement (the “**Property**”).

B. The parties desire to modify the Disposition Agreement 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 Disposition Agreement.

AGREEMENT

1. **Due Diligence Period.** Section 2.4 of the Disposition Agreement is hereby amended such that the Developer’s Initial Due Diligence Period, as defined in the Disposition Agreement, shall be for a period of three hundred (300) days after the Effective Date, and shall expire on March 20, 2019.

2. **Closing.** Section 3.3 of the Disposition Agreement is hereby amended such that the transaction shall close on a date to be selected by Developer and reasonably acceptable to Agency that is on or before thirty (30) days after the expiration of the Due Diligence Period.

3. **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.

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

[Signatures on next page.]

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

AGENCY:

CLACKAMAS COUNTY DEVELOPMENT AGENCY,
a corporate body politic

By: _____
Name: _____
Its: _____

DEVELOPER:

BOTTLING GROUP, LLC,
a Delaware limited liability company

By: _____
Name: _____
Its: _____