

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: 12/10/13 **Approx. Start Time:** 2:30pm **Approx. Length:** 30 min.

Presentation Title: Workforce Investment Council of Clackamas County (WICCO) Annual Update

Department: Business and Community Services, Gary Barth, Director

Division: Business and Economic Development

Presenters: Catherine Comer, Manager, Business and Economic Development
Kim Parker, Executive Director, WICCO

Other Invitees: Members of the WICCO Executive Committee

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Does the BCC concur with current strategic direction of WICCO? Request to renew the Memorandum of Agreement (see attached).

EXECUTIVE SUMMARY:

The WICCO board has been identified by the Clackamas County Board of Commissioners (BCC) as the workforce investment act fund administrator in Clackamas County. WICCO is a 501 (c) 3 organization governed by a board of directors responsible for developing policy and overseeing local workforce development initiatives in partnership with the BCC.

In compliance with the Memorandum of Agreement between WICCO and Clackamas County, WICCO is to provide a written report to the BCC annually. This study session goes beyond that requirement to provide an opportunity for the WICCO Executive Director to present the annual written report in person to the BCC and answer any questions about the report.

FINANCIAL IMPLICATIONS (current year and ongoing):

As specified in the attached Memorandum of Agreement under "Roles and Responsibilities" the County is responsible for the following financial related items:

B) Serving as the local grant recipient (WIA Section 117(d)(3)(B). This duty is hereby delegated to WICCO in accordance with WIA section 117(d)(3)(B)(i)(II) and section I.B.2.(c) of this Agreement (below);

C) Providing one employee of County with expertise and experience in WIA grant accounting and administration to serve on the WICCO audit committee.

Marc Gonzales serves as the County representative on the WICCO audit committee.

LEGAL/POLICY REQUIREMENTS:

See attached Memorandum of Agreement

PUBLIC/GOVERNMENTAL PARTICIPATION:

See attached Memorandum of Agreement

OPTIONS:

N/A

RECOMMENDATION:

Accept the WICCO annual update as presented and renew the Memorandum of Agreement through December 31st, 2015, with no changes to the termination language.

ATTACHMENTS:

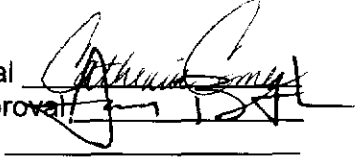
WICCO/Clackamas County Memorandum of Agreement

SUBMITTED BY:

Division Director/Head Approval

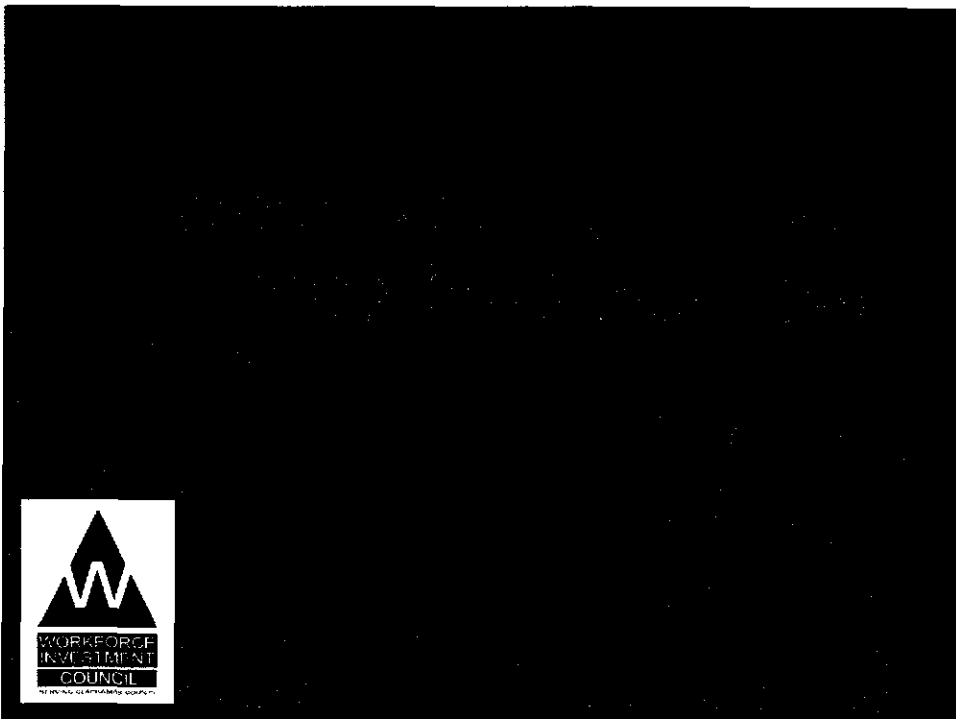
Department Director/Head Approval

County Administrator Approval

Handwritten signatures and initials are present over the approval lines. The top signature is a cursive name, likely 'Arthur Smith'. Below it, there are initials 'JMS' and another signature.

For information on this issue or copies of attachments, please contact
Clackamas County Economic Development 503-742-4329

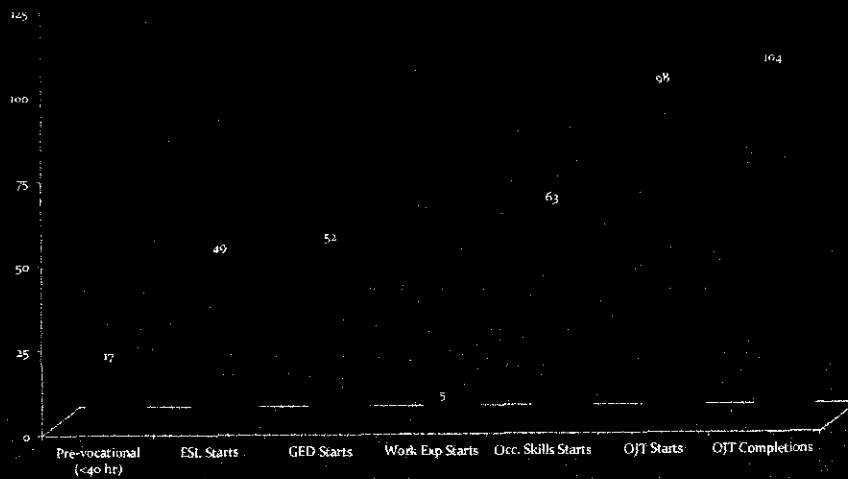
Annual report to the Board of County Commissioners
December 10, 2013

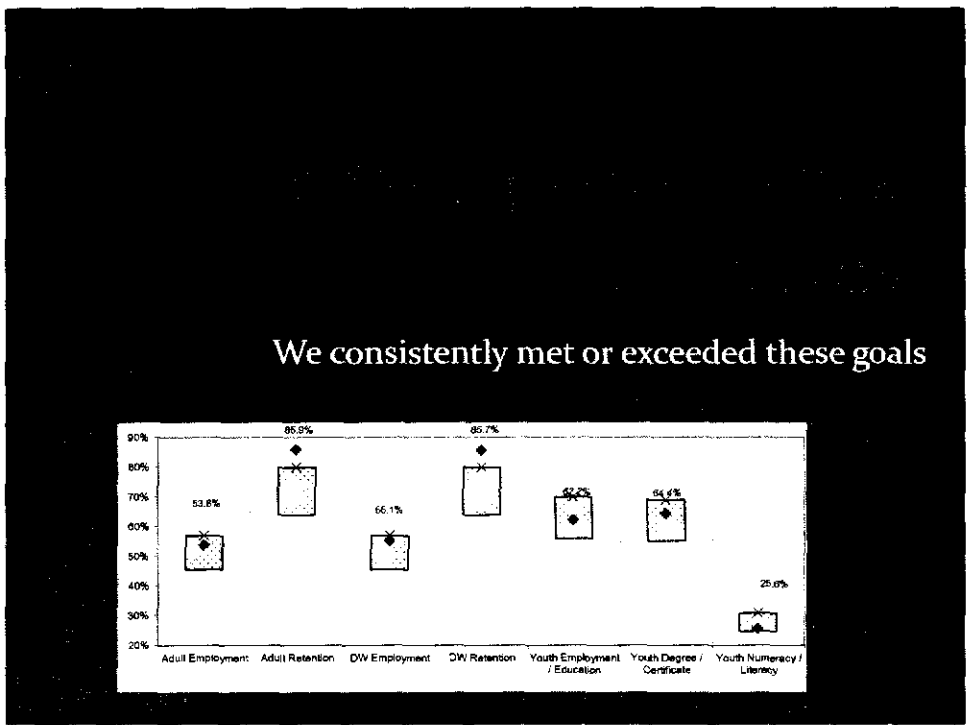


14,292 (down from 18,001 the prior year) total enrollments through Worksource Clackamas (the majority were not employed when they visited, and were between the ages of 40-49)



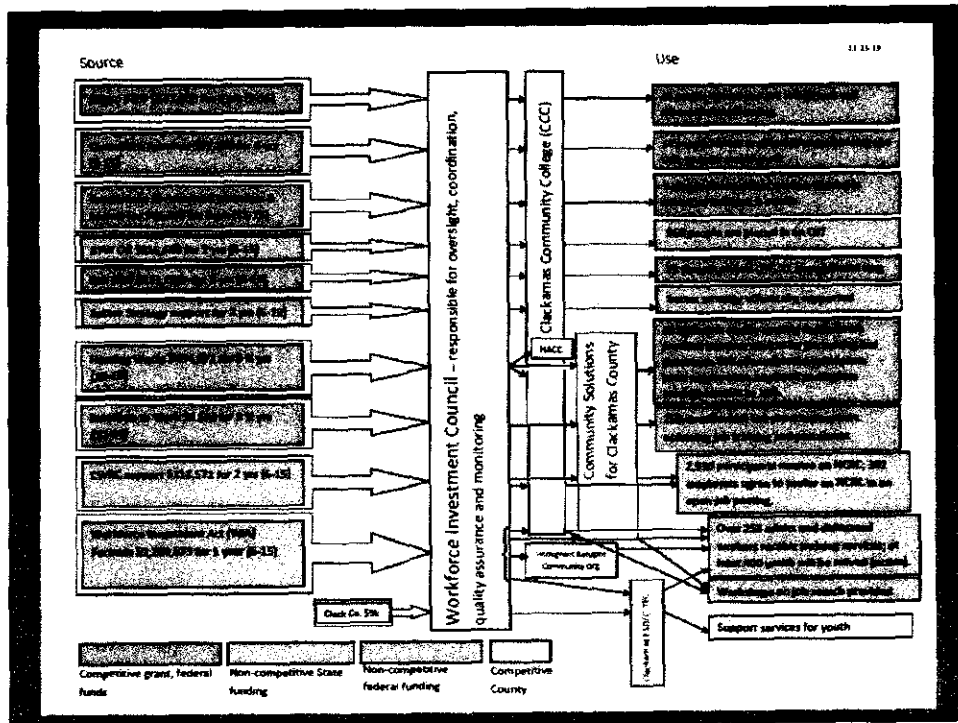
Adult-DW Skill Development





Many specific, competitive grants have been received in order to serve targeted populations of people.

Our provider base includes organizations working intensively with participants who have barriers to employment.



WIA formula decreasing – 50% cut over the last ten years.
More opportunities for competitive resources.
State funding support – particularly OJT.



Increased focus on specific Sectors:

Health Care
Manufacturing



Certified Work Ready Communities

The number of citizens who earn a National Career Readiness Certificate, and the number of employers who 'prefer' this certificate in hiring.



System innovation

Statewide recognition for the work being done at the WorkSource Annex (Community Solutions of Clackamas County)



15 recommendations to redesign workforce programs at the state level have been presented to the Oregon Workforce Investment Board (OWIB)



Most significant for us locally – next phase of redesign is the potential of redrawing boundary lines of Workforce Investment Board jurisdictions.



Identifies the Workforce Investment Council as the Workforce Investment Board in our region.



Questions/comments?



MEMORANDUM OF AGREEMENT

Between: Clackamas County,
A Political Subdivision of the State of Oregon
2051 Kaen Road
Oregon City, OR 97045

And: Workforce Investment Council of Clackamas County, Inc.
An Oregon Nonprofit, Public Benefit Corporation Without Members
365 Warner Milne Road, Suite 202
Oregon City, Oregon 97045

This agreement is made and entered into by and between Clackamas County, Oregon, ("County"), and the Workforce Investment Council of Clackamas County, Inc., ("WICCO"), pursuant to the Workforce Investment Act of 1998.

RECITALS:

- A. WHEREAS, the Workforce Investment Act of 1998, Public Law 105-220, ("WIA") requires the establishment of a local Workforce Investment Board in each local area of a state and authorizes the expenditure of federal funds for job-training and workforce development programs in locally determined Workforce Investment Areas; and
- B. WHEREAS, the County constitutes a jurisdiction eligible for designation as a Workforce Investment Area (Region 15) in which WICCO serves as the local workforce board; and
- C. WHEREAS, WIA establishes a partnership between the Local Workforce Investment Board and the Chief Elected Official to preserve local control and decision making in workforce development; and
- D. WHEREAS, the Board of County Commissioners of County (BCC) serves as the chief elected official of County and under WIA is liable for WIA grant funds; and
- E. WHEREAS, the partnership between WICCO and County is part of a statewide workforce development system and is subject to approval and certification by the Governor of the State of Oregon; and
- F. WHEREAS, the State of Oregon policy governing this partnership seeks to establish collaboration between the partners in order to carry out strategies and policies that build on statewide investments;

NOW THEREFORE, Be it resolved that this Agreement pursuant to WIA and the State of Oregon's workforce development system is made and entered into and between County and WICCO.

A. Compliance with Laws.

WICCO and County shall operate in compliance with all applicable federal, state and local statutes, ordinances, rules, regulations and other laws.

B. Roles and Responsibilities.

1. County. County shall be responsible for the following:

- a) Appointing WICCO board members (WIA Section 117(c)(1), including at least one member of the BCC to serve on the WICCO board;
- b) Serving as the local grant recipient (WIA Section 117(d)(3)(B). This duty is hereby delegated to WICCO in accordance with WIA section 117(d)(3)(B)(i)(II) and section 1.B.2.(c) of this Agreement (below); and
- c) Providing one employee of County with expertise and experience in WIA grant accounting and administration to serve on the WICCO audit committee.

2. WICCO. WICCO shall be responsible for the following:

- a) Serving as the local program administrator;
- b) Maintaining WICCO's status as a non-profit organization;
- c) Serving as grant sub-recipient pursuant to the delegation described in section 1.B.1.(b) of this Agreement (above), receiving and disbursing funds made available to Region 15 - Clackamas County under the Workforce Investment Act, and:
- d) Developing a WIA budget for the purpose of carrying out WICCO's duties, subject to the approval of County (WIA Section 117(d)(3)(A)).

3. Implementation.

- a) As the Local Workforce Investment Board, WICCO agrees to operate in compliance with the WICCO Articles of Incorporation and Bylaws.
- b) WICCO and County agree to operate in compliance with the Region 1 5 Local Unified Plan adopted pursuant to the WIA, as amended from time to time.
- c) WICCO agrees to provide a written report to the BCC annually, summarizing the results of the annual monitoring review by the State, which includes a compliance review of administrative, fiscal and program systems.
- d) WICCO agrees to provide thirty (30) day's written notice to the BCC of any proposed changes to WICCO's Bylaws. The notice shall be mailed to the Office of Clackamas County Counsel by certified mail, return receipt requested, and shall be deemed delivered on the earlier of: (i) three (3) business days after mailing, or (ii) the date of actual receipt as marked on the US Postal Service return receipt.

WICCO agrees that any proposed change to WICCO bylaws that the BCC objects to may not be made until the BCC concurs with the proposed bylaw change.

- e) WICCO agrees to receive WIA grants and other grants in its own name and be responsible for the development of grant programs, expenditures and accounting for all funds that WICCO receives. WICCO further agrees to deliver or procure services pursuant to the grants.
- f) WICCO agrees to establish and maintain an audit committee and maintain as a member of the committee the County employee described in section I.B.1.(c) of this Agreement (above).

The audit committee shall:

- i. Prepare or supervise the preparation of all financial statements and other official financial information provided to the public;
- ii. Design and implement systems of internal controls to ensure WICCO compliance with applicable laws, policies and procedures and appropriate risk management measures;
- iii. Facilitate an annual independent audit process, including engaging an independent certified public accountant and receiving all reports from the accountant; and

- iv. Issue an RFP for audit services every three to five years using federal procurement guidelines.
- g) WICCO agrees to procure such independent audits as are required under state and federal law or as WICCO deems both necessary and beyond what is required by state or federal law.
- h) WICCO's authority to administer job-training/workforce development programs and services is not limited to those services authorized by WIA, and WICCO may receive any available funds that are unrelated to WIA.
- i) WICCO shall maintain and use its own federal employer identification number (EIN) for all of its financial transactions. WICCO shall maintain its own bank accounts and direct the investment of its funds. As a non-profit organization, WICCO shall serve as fiscal agent for all funds received under its EIN and is responsible for all audit and tax filings under its EIN.

II. Conflict Resolution

A. Informal Negotiations.

In the event County and WICCO cannot agree on an issue where their agreement is required by this MOA or state or federal law, the County Administrator or designee and WICCO designee shall first attempt to resolve the disagreement.

B. Formal Negotiations.

If a resolution is still not reached, a representative chosen by the BCC and a representative chosen by WICCO shall meet and attempt to resolve the disagreement.

C. Resolution Committee for Further Negotiation.

If negotiations are unsuccessful, a Resolution committee will be formed with one member designated by WICCO, and a second member designated by County. The two members shall designate a third member. These three persons shall be known as the "Resolution Committee". The Resolution Committee shall promptly meet to discuss and resolve any dispute by majority vote. Decisions of the Resolution Committee shall be rendered within thirty (30) days after the Committee is appointed and shall be binding upon WICCO and County.

D. Alternative Means for Selection of Third Committee Member.

In the event a third member of the Resolution Committee cannot be agreed to by the two members of the Resolution Committee so chosen, the Director of Workforce Development

programs for the State of Oregon (currently the Director of Department of Community Colleges & Workforce Development 255 Capitol Street NE, Third Floor, Salem, Oregon 97310) or any replacement or substitute appointed as a result of legislation that replaces WIA, shall be asked to appoint the third member.

E. Other Remedies.

If the Resolution Committee is unable to resolve the matter, each party shall have recourse to any remedy provided by law.

III. **Liabilities**

A. Director's and Officer's Insurance.

WICCO shall purchase insurance to prudently protect itself, its directors and officers against liabilities. Such insurance policy shall include Audit Exception and/or Errors and Omissions coverage as agreed to by WICCO and County. The policy shall name County as an additional insured and shall include a provision for the insurer to notify County prior to canceling the insurance coverage.

B. General Liability Insurance.

WICCO shall purchase a policy of general liability insurance. The policy shall always be at least equal in coverage to the amount of liability of a public body for any number of claims arising out of a single accident or occurrence as set forth in the applicable provision of the Oregon Tort Claims Act. The policy shall name County as an additional insured and shall include a provision for the insurer to notify County prior to canceling the insurance coverage.

C. Indemnification.

WICCO shall defend, indemnify and hold harmless County from all liability arising out of WICCO's conduct including its conduct as a program administrator and Workforce Investment Board in the administration of job-training and workforce development services, except to the extent that county's liability is the result of its own negligence or results from County being held liable by the State of Oregon under WIA (or any replacement federal job-training/workforce development legislation) for County's actions. The County shall similarly indemnify WICCO to the extent permitted by Oregon Law.

WICCO shall require its contractors to assume responsibility and to indemnify WICCO and County for liabilities arising from contractor activities. The parties hereby recognize that some of the contractors may be entities or agencies that are bound by debt and indemnification limits

set forth in the Oregon Constitution. The parties therefore agree to require indemnification from such entities or agencies to the fullest extent permitted by Oregon law.

D. Maintenance of Reserve Fund.

To the extent WICCO receives unrestricted moneys that may lawfully be held in a reserve fund, WICCO shall, before otherwise committing the moneys, deposit ten percent (10%) of the moneys in a Reserve Fund in an amount that may not exceed \$250,000. The Reserve Fund shall be held for the purpose of making reimbursements for misapplied WIA grant funds.

E. Liability Priority.

In the event liability for WICCO expenditures or operations occurs, the following priorities apply:

1. First Priority: WICCO shall attempt to recover funds from the contractor, agent or third party causing the liability.
2. Second Priority: WICCO shall attempt to recover funds from insurance described above.
3. Third Priority: WICCO shall repay the liability from the Reserve Fund described in section III.D. of this Agreement (above).
4. Fourth and Final Priority: As a last resort and only to the extent required by the WIA or other federal or state law, County shall repay any otherwise unpaid liability.

IV. **Duration and Amendment**

A. Effective Date and Duration.

This Agreement is effective upon the date of the last signature by a party and shall remain in effect until June 30th, 2013. As of July 1, 2013, the agreement shall remain in effect until it is terminated by:

1. Either party as set forth in Section V. of the Agreement (below);
2. Operation of law; or
3. Execution of a subsequent Memorandum of Agreement by both parties that supersedes the Agreement.

B. Amendments.

Any amendment to this Agreement must be in writing signed by both parties and must make specific references to this Agreement. Upon the request of either party, the parties shall enter into discussions with the other concerning amendment to this Agreement.

C. This Agreement Supersedes Prior Agreements.

This writing is intended both as the final expression of this Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of this Agreement. Except as provided in section I.A. of this Agreement (above), all prior Agreements on the same subject matter are superseded by this Agreement.

V. **Termination**

A. Pre-Requisites to Termination Generally.

Except as otherwise provided herein, any termination of this Agreement by either party after June 30, 2013, shall be effective as of June 30th of any subsequent year, if written notice of the intent to terminate has been given to the non-terminating party no later than January 15th of that same year.

B. Termination for Cause by Either Party.

Notwithstanding any other provision of this Agreement, either party may terminate this Agreement effective 90 days after written notice is given in compliance with this subsection, as follows:

1. If a party violates section I.A. of this Agreement (above), and the other party gives written notice of intent to terminate after 90 days, specifying the non-compliance, and specifying that the violating party has 45 days to cure the noncompliance to prevent termination.
2. If the violating party fails to cure the violation to the satisfaction of the other party in the 45 day period provided for in a written notice, this Agreement will terminate on the 90th day after that notice was sent by first class and certified mail, return receipt requested. Provided, however, that the terminating party may not terminate this Agreement after 90 days if the violating party can show that it has undertaken substantial action that is expected to cure the violation within a period of time that is reasonable under the circumstances.

C. Termination by BCC for Performance Issue.

County and WICCO understand that the goals set forth in the Recitals on page one of this Agreement can only be achieved if WICCO maintains a level of performance that satisfies Workforce Investment Act State supervisory officials. In order to secure a place for County in the monitoring and correction of poor performance by WICCO, the following requirements are made a part of this Agreement:

1. If WICCO performance falls below 80% for the first year, WICCO will take the following actions as a Board:
 - a) In October, make a written report to the BCC that a performance measure(s) has been missed.
 - b) Meet with the contractor(s) to assess why the performance measure(s) was not met and create a written performance improvement plan.
 - c) In February or March, contact the State of Oregon Department of Community College and Workforce Development for Performance Improvement Plan funds to assist with implementation of the Performance Improvement Plan.
 - d) The following October, follow up in writing with the BCC on the results of the Performance Improvement Plan.
2. If WICCO performance remains below 80% in the same performance standard for a second consecutive year, WICCO will take the following actions as a Board:
 - a) In October, make a written report to the BCC that a performance measure(s) has been missed for two consecutive years.
 - b) Meet with the contractor(s) to assess why the performance measure was not met again and create a written corrective action plan.
 - c) In February or March, contact the State of Oregon Department of Community College and Workforce Development for Performance Improvement Plan funds to assist with implementation of the Corrective Action Plan.
 - d) The following October, follow up in writing with the BCC on the results of the Corrective Action Plan.

3. If performance remains below 80% in the same performance standard for a third consecutive year, WICCO will take the following actions as a Board:
 - a) In October, report to the BCC and the State that a performance measure(s) has been missed for a third consecutive year.
 - b) Meet with the contractor(s) to assess why the performance measure has not been met. Call a special meeting of the WICCO Board, the BCC and the State of Oregon Department of Community College and Workforce Development (CCWD) and the Governor's Staff.
 - c) Review historical data and follow the recommendation of CCWD and the Governor's Staff. These are the considerations and options of CCWD and Governor's Staff:
 - i. Review historical data and make a determination if course corrections are adequate and grant additional year of correction action plan.
 - ii. Require other appropriate measures designed to improve the performance of the local area.
 - iii. Prohibit use of a particular service provider or One-Stop partner that has been identified as achieving poor levels of performance.
 - iv. Appoint and certify a new Local Board.

After the special meeting described in section V.C.3(b) of this Agreement (above), County may send a 90 day notice of termination for cause to WICCO. This Agreement will terminate on the 90th day after that notice was sent by first class and certified mail, return receipt requested. A copy of that notice of termination letter will be provided to the State Office of Community College and Workforce Development and the Governor's Staff, *contemporaneous with the mailing of the notice to WICCO.*

MEMORANDUM OF AGREEMENT

Between

The County of Clackamas County, Oregon

And

The Workforce Investment Council of Clackamas County, Inc.

Signatures

For the BOARD OF COUNTY COMMISSIONERS




Commissioner Lynn Peterson, Chair 6-17-10
Date

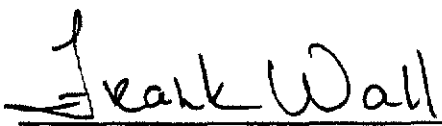


Mary Raethle, Recording Secretary 6-17-10
Date E.I.

For the WORKFORCE INVESTMENT COUNCIL OF CLACKAMAS COUNTY



Kim Parker, Executive Director 6-17-10
Date



Frank Wall, Chair 6/23/10
Date