



Commissioners encourage public to attend public meeting digitally.

BOARD OF COUNTY COMMISSIONERS
PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

AGENDA ****Revised** (added Addendum No 3 under Wildfire Update)

Thursday November 5, 2020 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2020-73

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

***** Elections Update**

***** Wildfire Update**

- **1. Approval of an Addendum No 3 to Board Order No. 2020-66 Declaring a State of Emergency Regarding Wildfires (Stephen Madkour, County Counsel)

***** COVID-19 Update**

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

1. Presentation regarding Hispanic Interagency Networking Team (HINT)
- *2. Presentation Clackamas County Disaster Management, Red Cross, EPA

II. PUBLIC HEARINGS *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the department or organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

1. First Reading of Ordinance No. _____, Adding Clackamas County Code Chapter 8.10, Short-Term Rentals to the Clackamas County Code, and Amending Clackamas County Code Chapter 2.07, Compliance Hearings Officer

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

A. Health, Housing & Human Services

1. Approval of an Intergovernmental Agreement between the Housing Authority of Clackamas County and the Community Development Division for conducting Environmental Reviews – *Community Development*
2. Approval of a Sub recipient Agreement with Lifeworks NW for Intensive Case Management Services – *Behavioral Health*
3. Approval of Sub recipient Agreement with Quest Center for Integrative Health or W.I.S.H. Program Services – *Behavioral Health*
4. Approval for the Public Health Division to apply for the NACCHO Local Climate and Health Demonstration Site funding opportunity. – *Public Health*
5. Approval of an Intra-Agency Agreement with Health Centers Division (CHCD) to reimburse Public Health Division (CCPHD) for client services provide by the Public Health Medical Director at the Health Centers Beavercreek Clinic – *Public Health*
6. Approval of a Sub recipient Agreement with Cascadia Behavioral Healthcare, Inc. for Residential Treatment Services - *Behavioral Health*
7. Approval of a Sub recipient Agreement with Cascadia Behavioral Healthcare, Inc. for Assertive Community Treatment Program - *Behavioral Health*
- *8. Approval of Amendment #1 to Subrecipient Grant Agreement with Ant Farm, Inc., to Provide CARES Funded Rent Assistance Services

B. Department of Transportation & Development

1. Approval of a Resolution Declaring the Public Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property for the Bear Creek (Canby Marquam Highway) Bridge Project and Authorizing Good Faith Negotiations and Condemnation Actions

C. Finance Department

1. Approval of a Contract with ERP Analysts, Inc. dba ERPA Group for Chart of Accounts Re-Installation and PeopleSoft Updates - *Procurement*

D. Technology Services

1. Approval for an Intergovernmental Agreement between Clackamas Broadband eXchange, City of Portland and Oregon Health & Science University for sharing data resources

IV. PUBLIC 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. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.*

V. COUNTY ADMINISTRATOR UPDATE

VI. COMMISSIONERS COMMUNICATION

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

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Declaring a Local
State of Emergency and Declaring
Emergency Measures



Third Addendum to Board Order
No. 2020-66
Page 1 of 2

1. By way of Board Order 2020-66, Clackamas County formally declared a state of emergency due to Wildfires for Clackamas County, effective on the 8thth day of September for the entire County. On September 10, the Board of County Commissioners authorized the imposition of curfews as an emergency measure. That declaration of emergency was scheduled to expire on September 22, 2020.
2. By way of this First Addendum, the Board of County Commissioners found that the conditions giving rise to the declaration of emergency remained in existence and that it was therefore necessary to extend the duration of the declaration of emergency until November 10, 2020.
3. By way of a Second Addendum, the Board of County Commissioners removed curfew as an emergency measure deemed no longer necessary. All other emergency measures to remain in effect.
4. By way of this Third Addendum, the Board of County Commissioners further finds that In addition to the conditions giving rise to the initial declaration of emergency, the consequence and the aftermath of the wildfires will require additional resources including but not limited to the sheltering of those individuals displaced by the wildfires, in addition to those combating the wildfires; the collecting, transporting, and disposing of the debris created by the wildfires; and assistance related to re-entry and resource centers needed for the impacted population.

Moreover, Clackamas County continues to work through wildland fire recovery and needs assistance from state and federal partners including, but not limited to, social services/case management, debris removal for public owned properties, personal property debris removal (as approved by FEMA and the State of Oregon), watershed assessment and recovery, and mitigation efforts related to potential mudslides, landslides, and flooding.

Based on the above, the Board of County Commissioners finds that the conditions giving rise to the declaration of emergency remain in existence and it is therefore necessary to extend the duration of the declaration of emergency until January 8, 2021.

IT IS FURTHER ORDERED BY WAY OF THIS FIRST ADDENDUM that:

Any individual or entity that violates any provision of any emergency measures is subject to a \$500 fine for each offense.

All previously declared emergency measures (see attached) shall remain in effect for the duration of the declaration of emergency.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Declaring a Local
State of Emergency and Declaring
Emergency Measures



Third Addendum to Board Order
No. 2020-66
Page 2 of 2

DATED this 5th day of November 2020.

BOARD OF COUNTY COMMISSIONERS

Jim Bernard, Chair

Recording Secretary



Hispanic Interagency Networking Team

Dedicado a proporcionar recursos relevantes a la comunidad Latina en el condado de Clackamas
Dedicated to providing culturally relevant resources to the Latino community in Clackamas County

November 5, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Presentation Honoring HINT for over 30 years of service building leadership within the Latinx community and strengthening connections with service providers.

Purpose/Outcomes	The Hispanic Interagency Networking Team (HINT) is dedicated to working with private and public agencies and the Latinx community to coordinate and integrate social and educational services and to promote the cultural heritage of Latinos within the community.
Fiscal Impact	None
Funding Source	N/A
Duration	N/A
Previous Action	N/A
Strategic Plan Alliance	1. Engage and promote Community Involvement. 2. Building public trust through good government
Contact Person	Maria Magallon Equity and Inclusion Office, County Administration

BACKGROUND

HINT- the Hispanic Interagency Networking team is an independent 15-member steering committee with representation from County employees, DHS, Clackamas Community College, The Family Justice Center, Todos Juntos, Wolf Pack Peer Support and retired community volunteers. HINT also includes the involvement of over 100 agencies, educational institutions, and other service providers. In March of this year, Senator Merkley presented a U.S. flag that has flown over the U.S. Capitol to HINT for over 30 years of service building leaderships within the Latinx community and strengthening connections with service providers.

HINT formed in 1988 under the name of Migrant and Seasonal Farm Worker Task Force. It initially formed to address a shortage of housing in Clackamas County for agricultural workers. The task force never dissolved because the Latinx population in Clackamas County continued to grow. There is an on-going need for service providers to network and coordinate resources specific to the Latinx community.

HINT Steering committee meets monthly throughout the year to coordinate and host educational forums focused on issues affecting the Latinx community such as Immigration, the Public Charge Rule, Worker's rights and other current issues. HINT also hosts "Hang Outs", informal gatherings that provide an opportunity for networking and information sharing amongst service providers.

HINT accomplishments include partnerships to survey the needs of the Latinx community, support for the opening of a multi-service center, which operated for several years in Canby, volunteer support for the Cesar Chavez Conference, Latinx resource fairs in several communities throughout Clackamas County, Cinco de Mayo and Hispanic Heritage events.



Hispanic Interagency Networking Team

Dedicado a proporcionar recursos relevantes a la comunidad Latina en el condado de Clackamas
Dedicated to providing culturally relevant resources to the Latino community in Clackamas County

The Latinx population in Clackamas County continues to grow; HINT is dedicated to working with organizations in Clackamas County to provide culturally appropriate services and recognize the important contributions of the Latinx community. The Hispanic Interagency Networking Team (HINT) is honored by Senator Merkley's recognition; we appreciate the support from Clackamas County over the years, from use of meeting space to co-sponsoring cultural events and continued partnership; HINT would like to present the flag for display to the Equity and Inclusion Office in County Administration.

<https://pamplinmedia.com/cr/24-news/455163-371313-merkley-honors-hispanic-network-in-clackamas-county>

RECOMMENDATION

Continued partnership with Clackamas County, strengthening connections with the Latinx community and co-sponsoring listening sessions and coordinating cultural events.

Respectfully submitted,

Maria Magallon



Hispanic Interagency Networking Team

Dedicado a proporcionar recursos relevantes a la comunidad Latina en el condado de Clackamas
Dedicated to providing culturally relevant resources to the Latino community in Clackamas County

2020-2022

Steering Committee

Officers: Co-Chairs

Eric Barrera
Oregon Youth Authority

Mike Foley
Community Volunteer

Karina Cruz
Secretary
Clackamas County Social Services

Olga Jimenez
Outreach Coordinator
Children, Family & Community Connections

Members:
Camilo Sanchez
Clackamas Community College

Mary Clark
Community Volunteer

Maria Magallon
Clackamas County Equity & Inclusion

Rosa Guitron-Galvan
WorkSource Clackamas/
Oregon Employment Department

Cindy Moon
State of Oregon
Department of Human Services

Patti Zavala
Todos Juntos

Carlos Benson Martinez
Wolf Pack

Diana Camarillo
Clackamas Women's Services

¡Bienvenidos! Welcome!

The Clackamas County Hispanic Interagency Networking Team (HINT) welcomes you to join us. There are many ways to access our free resources and we invite you to try them all!

Forums

- ★ Free forums are held every other month on topics relevant to the Latino community. Information about upcoming forums can be found on our web site at <http://www.hintclackamas.com>
- ★ Common topics include subjects such as Access to Health Care, Documentation, Employment, Education, Aging and Culturally Specific Programs.

Networking

- ★ Forums provide an opportunity to network with a wide array of service providers throughout the County and to share programs and events.
- ★ Networking at HINT allows private and public agencies to better coordinate services and creates dialogue between the Hispanic/Latino community, greater community and governmental agencies.

Events

- ★ In 2020-2021, we will again be partnering in the community to celebrate Latino contributions and culture including National Hispanic Heritage Month and the Latino Festival at Clackamas Community College

Website

- ★ This site is devoted solely to services and resources for the Latino community in Clackamas County. Providers can find general resources as well as ask specific questions at <http://www.hintclackamas.com/Resources-Menu.html>
- ★ Providers will also find useful Tool Kits, Statistics and Reports, and information about our Monthly Forums

We welcome you to join us!

www.HINTClackamas.com

info@hintclackamas.com
503-650-5693

Hispanic Interagency Networking Team (HINT)



HINT received recognition for over 30 years of service building leaderships within the Latinx community and strengthening connections with service providers.



HINT formed in 1988 under the name of Migrant and Seasonal Farm Worker Task Force.



HINT Forums & Networking Hangouts

HINT



IMMIGRATION

JANUARY 15, 2020
3:00PM-4:30PM

PRINCE OF LIFE LUTHERAN
CHURCH
13896 S MEYERS RD
OREGON CITY

PRESENTERS:

- MARK BOWERS - OREGON LAW CENTER
- ALEXANDRA BLODGET - CATHOLIC CHARITIES
- LAURIE HOEFNER AND ANNA TAVERA-WELLER - LEGAL AID SERVICES OF OREGON/FARMWORKER PROGRAM.

Interpreter available



HINT Co-Sponsors Cultural Events

☼ Day of the Dead Celebration ☼
Celebración de Día de los Muertos



Clackamas Community College Community Center
Friday, November 2nd, 5:00 to 8:00 pm.

*Clackamas Community College students are encouraged
to drop by on Thursday, November 1, 11:00 am. to 1:00 pm.*

Bring ofrendas* for the community altar. November 2nd will have piñata
decorating, face painting, traditional treats, music and much more!

*Ofrendas - are objects placed on a ritual altar during the annual Día de los Muertos such as pictures of
deceased loved ones, flowers, sugar skulls, and other small items that your loved one liked/ appreciated.

Coordinated by CCC Student Leaderships, Unidos Club, &
Clackamas County Arts Alliance Latino Arts Planning Group

In partnership with Canby Bridging Cultures, Hispanic Interagency Networking Team,
Unite Oregon City, & West Linn Alliance for Inclusive Community



Thank you Clackamas County for your support & partnership





Nancy Bush

Director

Disaster Management
2200 Kaen Road
Oregon City, OR 97045

T 503-655-8378

clackamas.us

November 5, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Clackamas County Disaster Management, Red Cross, EPA Wildfire Presentation

Purpose/Outcome	To inform progress and response efforts of the wildfires in Clackamas County
Fiscal Impact	None
Funding Source	N/A
Duration	N/A
Previous Action	None
Strategic Plan Alliance	Build public trust through good government Ensure safe, healthy and secure communities
Counsel Review	N/A
Procurement Review	None, for information only
Contact Person	Nancy Bush, Director Clackamas County Disaster Management

BACKGROUND

RECOMMENDATION

Staff recommends the Board receive this presentation on the County, Red Cross, and EPA's response to the wildfires in Clackamas County.

Respectfully submitted,

Nancy Bush
Director Clackamas County Disaster Management



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

Stephen L. Madkour
County Counsel

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Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Assistants

November 5, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

First Reading of Ordinance No. _____, Adding Clackamas County Code Chapter 8.10, *Short-Term Rentals* to the Clackamas County Code, and Amending Clackamas County Code Chapter 2.07, Compliance Hearings Officer

Purpose/Outcomes	<i>To add a new section to County Code implementing regulations related to short-term rentals, together with corresponding conforming amendments.</i>
Dollar Amount and Fiscal Impact	<i>Implementation of this program would require up to two additional full time employees (FTE), plus additional time for the code enforcement Hearing's Officer. Based on cost estimates from DTD and the Finance Department, the total cost to run the STR program annually will be approximately \$320,000.</i>
Funding Source	<i>Revenue generated from newly adopted registration fees, potential seed money from the Tourism and Cultural Affairs Department.</i>
Duration	<i>Indefinite.</i>
Previous Board Action	<i>Policy Sessions: March 13, 2019; June 11, 2019; August 6, 2019; September 25, 2019; October 22, 2019; January 14, 2020; March 11, 2020; and October 13, 2020.</i> <i>Public Hearings: January 30, 2020 and February 13, 2020.</i>
Strategic Plan Alignment	<i>Ensure safe, healthy and secure communities. Build public trust through good government.</i>
Contact Person	<i>Martha Fritzie– 503-742-4529; Nate Boderman- 503-655-8364</i>
Contract No.	<i>N/A</i>

BACKGROUND:

What is a short-term rental (STR)?

A short-term rental (STR), or vacation rental, is a dwelling unit, or portion of a dwelling unit, that is rented to any person or entity for a period of up to 30 consecutive nights. Operators/hosts may be owners, renters, or property management companies.

Short-term rentals are often advertised on websites such as Airbnb, HomeAway, VRBO, VacationRentals.com, or Booking.com.

Background

In early 2019, the Board directed staff to look into the most effective ways to potentially allow and regulate STRs for three reasons:

1. The County's Zoning & Development Ordinance (ZDO) does not clearly identify STRs as allowed in any homes in the county, and therefore, from a zoning perspective, it is considered a prohibited use of a dwelling. However, there are clearly a number of homes in the County actively being used as short-term rentals and a growing interest among homeowners in pursuing this type of use legally in the county;
2. Several properties in the county operating as short-term rentals have generated enough complaints that it has become apparent that this use can cause unwanted neighborhood impacts; and
3. The Transient Room Tax (TRT) currently applies to STRs, as it does to hotels, motels and other lodging establishments. While there are a number of STRs that are paying the tax as required, there appears to be a large number that are not. Establishing a STR registration program, linking the registration to a requirement to pay the TRT, and funding enforcement of the new regulations could help level the playing field for all lodging establishments, ensuring they are all paying their fair share.

Since early 2019, Staff from the Planning & Zoning Division have led the work effort that has culminated in the proposed STR registration program and regulations that are currently under consideration for adoption into the County Code. This work included the following:

- **Research** – to understand if and how other jurisdictions in Oregon are allowing and regulating short-term rentals and, more importantly, what is and is not working well with their regulations. Based on feedback from these jurisdictions and a search of published studies on the matter, it became clear that there are a number of opportunities, as well as challenges with regulating STRs.
- **Internal stakeholders group** - which included representatives from Planning & Zoning; Code Enforcement; Building Codes; Tourism; Health, Housing & Human Services; the Housing Authority; Septic & Onsite Wastewater Program; County Counsel; DTD Administration; and Public & Government Affairs (representatives from Business & Community Services and the Sheriff's Department were invited but unable to attend).

This group was used extensively for feedback and input as drafts of proposed regulations for a short-term rental program were developed

- **Public outreach** – in addition to having Staff available to answer questions and collecting all written comments submitted throughout the life of the project, there were two major organized public outreach efforts conducted for this project:
 - 1) In May/June of 2019, Planning Staff, with support from Public and Government Affairs (PGA) Staff presented the topic of STRs and led discussions at seven public meetings, hosted by Community Planning Organizations (CPOs), a Hamlet and the County. Staff provided information on the project website and on a flyer distributed at these meetings to provide initial information and help frame the discussion.

Each of these public meetings was well-attended, with as many as 175 people attending the May 18th meeting in Welches. Comments were collected and summarized by Staff and a survey was made available to the public both on-line and on paper copies available at each of these meetings.

In addition to the series of public meetings, information about this project was disseminated through several social media outlets, including Twitter, Facebook and NextDoor; and on the project webpage (<https://www.clackamas.us/planning/str>). The May 20th public meeting, hosted by the County was also streamed live on Facebook. Video of this event generated over 1,700 unique viewers in the months following the event and the video was posted on the project webpage.

- 2) Beginning on December 3, 2019, Staff has posted drafts of the proposed short-term rental (STR) program and regulations, along with a survey, some basic information about the draft and adoption process, and Staff contact information on the project webpage. General conclusions from written comments received include:

All comments received via email or mail are posted on the project webpage (<https://www.clackamas.us/planning/str>) and written comments not previously sent to the Board (received since the March 11, 2020 BCC policy session) are attached to this document (Attachment B). The single biggest takeaway from all the public outreach is that, in general, the public appears to support allowing short-term rentals in the county; however, there was, and likely still is, significant disagreement about the level of regulation that may be appropriate for this use. Not surprisingly, the two biggest areas of concern seem to lie around enforcement and quality of life/safety/neighborhood issues.

- **Policy/work sessions** – including 8 policy sessions with the Board of Commissioners (BCC) and 1 work session with the Planning Commission, all of which contained robust conversations about:
 - The opportunities and challenges with allowing and regulating STRs;

- What elements may be the most appropriate to regulate related to STRs, if the county is to move forward in that way;
 - What Staff learned through the extensive public outreach efforts made in the spring of 2019 and December of 2019;
 - Specific regulations for the use of a dwelling as an STR, including – garbage removal, maximum occupancy, parking, noise, building and fire safety, and other elements;
 - Administration of the STR program through the Finance Department;
 - Enforcement of other regulations that are not currently under the sheriff's department purview (noise ordinance, illegal parking, etc.) by the County's Code Enforcement staff;
 - What potential impact that allowing and/or regulating STRs may have on neighborhoods and to the supply of housing, specifically affordable housing;
 - Whether it may be appropriate to regulate different areas of the county differently – either through a registration “cap” or through a “primary residence” model (similar to Lake Oswego), understanding that both those methods may be difficult to administer and enforce;
 - Whether the county can afford a STR program given the program would require some start-up costs before the registration fees could result in “full cost recovery” for the program; and
 - What registration fees are reasonable, given the need to fully fund ongoing operations of the program with the fees.
- **Public hearings** – including 2 public hearings with the BCC on January 30, 2020 and February 13, 2020. At these public hearings, the Board heard testimony and discussed the proposed program and regulations as presented by staff. The draft was revised between the first and second hearings based on input from the Board. While there appeared to be significant agreement on the majority of the proposed regulations and the registration program in general, several issues came up at the public hearings and through written testimony that warranted further consideration, and the Board voted 3-2 to table the proposed amendments pending future discussion about these remaining issues. This additional discussion occurred during a Planning Session on March 11 and did not result in changes to the proposal.

Public hearings that were scheduled for April, 2020 were cancelled due to the pandemic and in May, the BCC decided to put this project on hold until the fall of 2020. During Issues on October 6, 2020, the Board directed staff to complete, by the end of 2020, County Code and conforming ZDO amendments to implement a short-term rental registration and regulation program, to be effective July 1, 2021.

Proposed STR Program and Regulations

The amendments to create the STR program and regulations are proposed for adoption into the County Code as **Section 8.10 Short-Term Rentals**. Key components of the current proposal include the following:

- Regulations would only apply outside of city limits in unincorporated Clackamas County.
- STRs would only be allowed in a legally-established dwelling (either part or all of the dwelling could be rented, including a guest house). This would include allowing for STRs in accessory dwelling units (ADUs), but would not allow STRs in RVs, tents, barns, shops or similar structures.
- All STRs would be subject to the same regulations, except that STR properties *inside the Portland metropolitan urban growth boundary (UGB)* would be required to be the owner's primary residence or located on the same tract as the owner's primary residence. (The owner would not be required to be there when the short-term rental was occupied). This "primary residence" provision was added as requested by the Board at the last policy session held before the January 30 public hearing.
- STRs would have to be registered with the county. In addition to paying a registration fee, which the county would use to cover the costs of administration and enforcement, the short-term rental owner would also be required to provide information at the time of registration, including:
 - Location;
 - Contact information for someone who can respond to complaints;
 - An affidavit of compliance with safety standards;
 - Evidence that all county fees and taxes have been paid, including registration with the county's Transient Room Tax program;
 - Proof of liability insurance, and
 - A site plan and a dwelling unit floor plan.
- Maximum overnight occupancy of two people per sleeping area plus four additional people, not to exceed 15 people. No maximum occupancy for guests who do not stay overnight.
- One off-street parking spot required for each two sleeping areas.
- Required garbage pick-up at least once a week, with any outdoor garbage containers required to be covered.
- Posted quiet hours from 10 p.m. – 7 a.m. (in accordance with current county noise ordinance).
- Building and fire safety requirements related to smoke and carbon monoxide detectors, emergency escape routes, fire extinguishers, etc. (as established via the affidavit)
- Short-term rental owners who do not comply with the regulations may be subject to enforcement consequences ranging from citations and fines, up to liens and revocation of

registration. Enforcement of the regulations will be carried out by either the Sheriff's Office or Code Enforcement, depending on the issue.

Staff has made a few minor changes to the draft ordinance that was presented at the March 11, 2020 and October 13, 2020 policy sessions, including:

- Minor edits and adjustments for consistency and clarity;
- Adding a definition for "overnight", to include "anytime between the hours of 10 p.m. and 7 a.m. on the following day". This definition was added to provide certainty about when the maximum number of occupants applies, as it is intended to limit only overnight stays.
- Adding an exception to the off-street parking requirement for dwellings specifically developed under the "resort accommodations" category in the Rural Tourist Commercial (RTC) zoning district (found only in some of the communities on Mt. Hood). This exception is necessary because at the time of development approval, many of these dwellings are specifically allowed, per the Zoning and Development Ordinance, to utilize certain on-street spaces in lieu of off-street spaces.

All changes are identified in red in the attached draft of County Code Section 8.10.

Funding of the STR program: Implementation of the STR program, as drafted, is anticipated to require up to two additional FTE, plus additional time for the code enforcement Hearings Officer. Based on personnel cost estimates from DTD and the Finance Department and estimates about the number of STRs in the county from industry professionals, the initial estimate is that the baseline fee for the 2-year registration would need to be \$800 - \$900 in order to support the program. This estimate assumes 100% cost recovery through the registration fees for both administration and enforcement of the program; no General Fund money would be required.

However, the fee discussion is not a part of the ordinance under consideration at this hearing and the BCC will need to discuss and implement a fee at a later date, prior to the effective date of the ordinance.

RECOMMENDATION:

Staff respectfully requests that the BCC hold this public hearing and schedule a second reading and public hearing of this ordinance on November 19, 2020, at 10 a.m.

Respectfully submitted,

Nate Boderman
Assistant County Counsel

Attachments:

- A. ORDINANCE NO. _____, An Ordinance Adding Clackamas County Code Chapter 8.10, *Short-Term Rentals* to the Clackamas County Code, and Amending Clackamas County Code Chapter 2.07, *Compliance Hearings Officer*
- B. Written public comments received between 3/11/2020 and 10/28/2020. *(Note: All public comments, including those previously sent to the BCC prior to the March 11, 2020 BCC policy session, are available on the project webpage: <https://www.clackamas.us/planning/str>)*
- C. Redlined copy of County Code Section 8.10 showing changes to the draft ordinance that was presented at the March 11, 2020 and October 13, 2020 policy sessions.

ORDINANCE NO. _____

**An Ordinance Adding
Clackamas County Code Chapter 8.10, *Short-Term Rentals*
and Amending Clackamas County Code Chapter 2.07, *Compliance
Hearings Officer***

WHEREAS, the Board of Commissioners of Clackamas County finds that a property owner’s short-term rental of a dwelling unit is an acceptable activity within the unincorporated areas of Clackamas County; and

WHEREAS, the Board finds that it is in the public’s interest to regulate short-term rentals in order to enhance public safety and livability; and

WHEREAS, the Board finds that the short-term rental of dwelling units could have negative impacts on the cost of housing in Clackamas County, and therefore wish to limit those impacts by requiring those short-term rentals located within the Portland Metropolitan Urban Growth Boundary to be located on the same tract as the owner’s primary residence,

Now, therefore, the Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 8.10, as shown on Exhibit “A”, which is attached hereto and incorporated herein by this reference, is hereby added to the Clackamas County Code.

Section 2: Chapter 2.07 is hereby amended to add a reference to Chapter 8.10, *Short-Term Rentals*, in the second paragraph of Section 2.07.010 for purposes of clarifying that enforcement of the *Short-Term Rental* Chapter shall be processed under the provisions of Chapter 2.07.

Section 2: Effective Date. This Ordinance shall be effective on July 1, 2021.

ADOPTED this _____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Ordinance No. _____

Chapter 8.10

8.10 SHORT-TERM RENTALS

8.10.010 Purpose

The purpose of this chapter is to regulate short-term rentals in order to enhance public safety and livability within the unincorporated areas of Clackamas County. Specifically, this chapter addresses public safety concerns typically associated with short-term rentals, and clarifies the process for both property owners and staff related to permitting short-term rentals and enforcing violations of these standards.

8.10.020 Definitions

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

- A. ADMINISTRATOR means the County Administrator of Clackamas County or his/her designee.
- B. DWELLING UNIT is a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. For the purposes of this chapter only, a guest house is considered to be part of the dwelling unit to which it is accessory, even though it is a separate structure. Guest house shall have the meaning given to that term in Section 202 of the Clackamas County Zoning and Development Ordinance.
- C. OCCUPANTS means persons who are authorized to stay overnight within a short-term rental.
- D. OWNER is the owner or owners of a dwelling unit used as a short-term rental.
- E. OVERNIGHT means anytime between the hours of 10 p.m. and 7 a.m. on the following day.
- F. PREMISES means the short term rental and the lot on which it is located.
- G. PRIMARY RESIDENCE means a dwelling unit where an owner lives most of the time. At a given time, an owner does not have more than one primary residence. For purposes of determining whether a dwelling unit is a primary residence, the County may consider factors that include, but are not limited to: whether the dwelling unit is the legal residence of the owner for purposes of voting, motor vehicle/driver licensing, income tax calculation, and the time the owner has spent at the dwelling unit.
- H. REGISTRANT means the owner, or agent of the owner, designated on the registration to act for the owner, who is responsible for ensuring the short-term rental adheres to all applicable requirements to maintain a short-term rental registration.
- I. REGISTRATION means a short-term rental registration.
- J. SHORT-TERM RENTAL means a dwelling unit, or portion of a dwelling unit, that is rented to any person or entity for lodging or residential purposes, for a period of up to 30 consecutive nights.
- K. SLEEPING AREA means a room or other space within a dwelling unit designed and intended primarily for sleeping.

8.10.030 Applicability

This chapter shall apply within the unincorporated areas of Clackamas County including within urban growth boundaries, but shall not apply within the boundaries of any incorporated city.

This chapter does not apply to hotels, motels, bed and breakfast facilities, hostels, campgrounds, recreational vehicle (RV) camping facilities, or organizational camps.

8.10.040 Short-Term Rental Registration Requirements and Fee

- A. All short-term rentals shall be registered, except that any short-term rental that qualifies for an exemption to the Transient Room Tax under Section 8.02.060(C), as “incidental” use of the property, shall be exempt from the registration requirements set forth herein.
- B. Application forms for a registration for a short-term rental will be available at County offices. Applications for initial and renewal registrations for a short-term rental must be submitted to the County and must be signed under penalty of perjury. The application documents must include at least the following:
 - 1. The location of the premises.
 - 2. The true names, telephone numbers, and addresses and any aliases of the persons that have, or have had within the preceding year, a financial interest in the premises.
 - 3. A Land Use Compatibility Statement, signed by a Planning & Zoning Division representative, affirming that the short-term rental complies with Section 8.10.060(A).
 - 4. Signed affidavit of compliance with all building and fire standards in Section 8.10.060(G), and all applicable requirements in Section 8.10.060(D-F).
 - 5. Evidence that all current taxes and fees owed to Clackamas County have been paid for the premises.
 - 6. Evidence that a Transient Room Tax registration form has been submitted to the County.
 - 7. The name, telephone number, and address of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the short-term rental.
 - 8. Proof of liability insurance coverage on the short-term rental.
 - 9. A statement that the registrant of the short-term rental has met and will continue to comply with the standards and requirements of this chapter.
 - 10. A site plan that identifies, at a minimum, all structures on the property, driveway(s), off-street parking spaces, and garbage receptacles.
 - 11. A dwelling unit floor plan that identifies, at a minimum, all sleeping areas and other rooms in the dwelling unit.
 - 12. If the premises includes a guest house to be used as a short-term rental, verification that the guest house is equipped with indoor plumbing equipped with a water closet, lavatory, shower, bathtub or combination bath/shower. All plumbing fixtures must be connected to an approved water supply, and an approved sanitary sewer or private sewage system.
- C. A separate registration application must be submitted for each proposed short-term rental; however only one short-term rental registration shall be approved per dwelling unit.
- D. At the time of submission of a short-term rental registration application, the registrant must pay a short-term rental registration fee. The fee amount shall be set by resolution of the Board of County Commissioners.

- E. A registration is transferable to a new registrant, so long as the new registrant submits notification to the administrator, signed by the original registrant, of the transfer and agrees in writing to comply with the requirements of this chapter. A change of registrant notification form will be available at County offices.
- F. No short-term rental may be publicly advertised for rent unless it has been registered with the County

8.10.050 Registration Termination – Renewal – Fee

- A. A short-term rental registration terminates automatically two years after the date of issuance, unless a new registration application is approved by the county.
- B. Registrants wishing to continue uninterrupted operation of a short-term rental shall submit a new application to the County a minimum of 30 days prior to the expiration of the registration.
- C. At the time of submission of a new short-term rental registration application, the registrant must pay the short-term rental registration application fee. The fee amount shall be set by resolution of the Board of County Commissioners.
- D. A short-term rental registration terminates automatically if state statutes, regulations or guidelines are modified or changed to prohibit operation of the short-term rental under this chapter.

8.10.060 Standards and Conditions

Any short-term rental must comply with the following standards at all times, in addition to any other state and local requirements:

- A. Dwelling Unit. The short-term rental must be operated within a legally-established, permanent dwelling unit.
 1. The dwelling unit associated with a short-term rental shall not have been established through a land use approval or other approval process that specifically limited the use of the dwelling unit, the occupancy of the dwelling unit, or the duration of the existence of the dwelling unit. Examples of non-qualifying dwellings include those approved as an accessory farmworker dwelling, a caretaker dwelling, or a temporary dwelling for care.
 2. Guest houses may only be used as a short-term rental if the guest house has been legally-established and where a registrant can demonstrate that the structure is equipped with indoor plumbing, a water closet, lavatory, shower, bathtub or combination bath/shower.
 3. Temporary sleeping accommodations such as tents and recreational vehicles are not considered to be dwelling units under the county's zoning and development ordinance and may not be used as a short-term rental.
- B. Maximum Overnight Occupancy. The number of overnight occupants in the short-term rental shall not exceed the number of occupants authorized in the registration. The maximum overnight occupancy shall be clearly posted in the short-term rental, disclosed in any advertising of the availability of the short-term rental, and included in any rental agreement with tenants. The maximum overnight occupancy authorized in the registration for the short-term rental shall be calculated as follows:
 1. Two occupants per sleeping area, plus four additional occupants.

2. Roll-out beds, fold-out couches, or other similar temporary beds shall not be considered a “sleeping areas” for the purposes of calculating maximum allowed occupancy, but could accommodate the four additional occupants.
 3. In no case shall more than 15 occupants be authorized by a short-term rental registration. If only a portion of a dwelling unit is used as a short-term rental, all occupants, including those occupying the portion of the dwelling unit not used as a short-term rental, shall be counted toward the 15-occupant maximum.
- C. Noise. Notice shall be clearly posted in the short-term rental that identifies and informs occupants of their obligation to abide by the County’s current noise control ordinance standards (Clackamas County Code Chapter 6.05).
- D. Parking. One off-street motor vehicle parking space per two sleeping areas is required. Garage space may be used to meet required parking standards if evidence is provided that there is sufficient cleared garage space to fit a vehicle(s). All required parking spaces must be available for occupants to use.
1. If the short-term rental contains only one sleeping area, one off-street parking space is required.
 2. If the short-term rental cannot provide the required number of parking spaces based on sleeping areas, the registrant may request a reduced maximum overnight occupancy based on available parking. In no case shall the registrant advertise for, or rent to, more persons than are authorized under the reduced maximum occupancy total.
 3. Short-term rentals in dwellings approved under the “resort accommodations” category in the Rural Tourist Commercial district are not required to provide more off-street parking than was required and approved under Zoning and Development Ordinance provisions.
 4. In no event shall vehicles block access for emergency vehicles, block access to the premise, block a parked motor vehicle, or otherwise park in a manner that violates the County’s current parking and towing ordinance standards (Clackamas County Code Chapter 7.01). Violation of this section may subject the offending vehicle to immediate tow pursuant to ORS 98.853.
- E. Garbage. All garbage from a short-term rental shall be legally removed from the premises by the owner, occupant or franchised service provider at least once per week during any week, or portion thereof, in which the short-term rental is occupied. All outdoor garbage receptacles shall be covered. Recycling container(s) shall be available for use by renters.
- F. Registration Identification. The registration identification number assigned to the short-term rental by the administrator shall be included on any advertisement or rental platform where the short-term rental is offered to the public for occupancy.
- G. Building and Fire Safety. A short-term rental shall comply with all ordinances that apply to a dwelling, and all structural components shall be kept in sound condition and good repair. In addition:
1. Working smoke detectors and carbon monoxide detectors shall be installed and maintained in locations as required by the Oregon Residential Specialty Code.
 2. Working fire extinguishers shall be placed in the kitchen and next to each wood burning appliance in an easily accessible location. A minimum of two (2) extinguishers are required in each Dwelling Unit.
 3. Code-compliant pool and hot tub barriers shall be present, if applicable.

4. Every sleeping area shall have not less than one operable emergency escape and rescue opening, including basement sleeping areas. Windows must meet the egress size required when the Dwelling Unit was built and permitted. Use the chart below to determine minimum size egress window based upon the year the house was built.

Year of Construction	Sill Height	Net Opening	Min. Height	Min. Width
Prior to 1964	No requirement	5.0 Sq. feet	No requirement	No requirement
1964 to 1970	48"	5.0 Sq. feet	24"	24"
1970-1976	48"	5.0 Sq. feet	22"	22"
1976-Present	44"	5.7 Sq. feet	24"	20"

5. All exterior building exits shall be clear, operable and available to renters. For Premises located at elevations above 3,500', doors that exit under active roof snow slide zones do not need to be available or operable when snow is present, unless the exit is part of the required primary egress for the Dwelling Unit or building.
 6. All electrical wiring shall be covered, and wall outlets, switches and junction boxes shall have code-approved covers in place.
 7. Electrical panels shall have a clear working space of at least 30 inches wide in front of the panel, and a clear space 78 inches high in front of the panel. All circuit breakers and/or fuses shall be clearly labeled in the event the power needs to be shut off to a certain area or appliance.
 8. All restrictions and prohibitions for burning as determined by the local Fire District shall be observed. All wood-burning fire pits and fireplaces shall be covered or made otherwise unavailable during burn prohibition periods. Contact information for the local Fire District shall be clearly posted in the short-term rental.
 9. The dwelling shall have no open building or zoning code violations.
- H. For any short-term rental located within the Portland Metropolitan Urban Growth Boundary, the dwelling unit to be used as a short-term rental must be located on the same tract as the owner's primary residence. However, the owner is not required to be present on the tract when the short-term rental is occupied. Tract shall have the meaning given to that term in Section 202 of the County's Zoning and Development Ordinance.

8.10.70 Registration Review

- A. The administrator shall, within thirty (30) days after receipt of a complete application for a short-term rental registration and applicable fee, either issue the owner a registration or provide notice of denial.
- B. Upon approval, the administrator shall furnish notice of the approval to all property owners of record within 300 feet of the premises, and contiguous properties under the same ownership. This approval notice shall provide the name, telephone number, and address of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the short-term rental.
- C. The administrator may deny a registration application for failure to submit the materials or fee set forth in Section 8.10.040, for failure to meet the standards and conditions set

forth in Section 8.10.060, for submitting falsified information to the County, or for noncompliance with any other applicable County ordinances.

8.10.080 Examination of Books, Records and Premises

To determine compliance with the requirements of this chapter, the Clackamas County Zoning and Development Ordinance, and any local tax measures, the administrator may examine or cause to be examined by an agent or representative designated by the administrator, at any reasonable time, the premises, and any and all financial, operational and facility information, including books, papers, and state and federal income tax returns. Every owner is directed and required to furnish to the administrator the means, facilities and opportunity for making such examinations and investigations.

8.10.090 Emergency Revocation

- A. In the sole determination of the Clackamas County Building Official, when a violation of the building code or applicable county ordinance exists at a short-term rental that presents an immediate serious fire or life safety risk, the Clackamas County Building Official may immediately revoke the short-term rental registration as a fire or life safety risk. The Clackamas County Building Official shall provide written documentation of the violation, and notification of the owner's right to appeal, as provided in 8.10.100.
- B. Upon an emergency revocation, the short-term rental shall not be rented or used as a short-term rental unless the revocation is withdrawn or a new short-term rental registration has been obtained.
- C. At any time following the emergency revocation of a short-term rental registration pursuant to this subsection, the Clackamas County Building Official may reinstate the registration upon a re-inspection by the Clackamas County Building Official verifying that the subject building code or county ordinance violation has been corrected.

8.10.100 Administration and Enforcement

The County encourages owners, registrants, occupants, and affected residents and owners of nearby properties, to cooperate directly to resolve conflicts arising from the occupancy of any short-term rental. Along those lines, the first attempt to remedy a violation of any of the standards in this chapter should be to contact the representative associated with the registration, as identified in the approval notice and the required short-term rental posting. In the event that the listed representative does not respond within 24 hours or does not adequately remedy the issue, the Clackamas County Department of Finance should be notified.

- A. For acts of noncompliance, the Code Enforcement Program of the Department of Transportation and Development shall administer, supervise, and perform all acts necessary to enforce this chapter or any other chapters of the Clackamas County Code applicable to short-term rentals, except as otherwise provided for in state law or in the Clackamas County Code such as, but not limited to, those regulations for which the Clackamas County Sheriff's Office has been vested with enforcement authority.
- B. Except as otherwise provided in this chapter, Chapter 2.07 of the Clackamas County Code shall govern the process for enforcement of this chapter, including but not limited to the notice and procedures associated with any compliance hearing.

- C. An owner that operates a short-term rental without an approved registration, or fails to pay the fees prescribed herein, shall be subject to immediate citation. Additionally, an owner that fails to pay the fees prescribed herein may have their short-term rental registration immediately revoked.
- D. A person who receives a citation for violation of this chapter shall respond within fourteen (14) days of the issuance of the citation by payment of any penalties established under this chapter, or by requesting a hearing as provided in this section.
- E. In addition to citation, the Code Enforcement Program of the Department of Transportation and Development may require an inspection of the premises.
- F. In addition to citation, the Hearings Officer may:
 - 1. Suspend the short-term rental registration until the short-term rental is in compliance with the standards and conditions set forth in Section 8.10.060; or
 - 2. Revoke the short-term rental registration if there have been three separate violations of this chapter related to the same short-term rental within the applicable two-year registration period or three separate documented violations by any occupant of the same short-term rental within the applicable two-year registration period related to the County's noise control ordinance standards (Clackamas County Code Chapter 6.05) or the County's parking and towing ordinance standards (Clackamas County Code Chapter 7.01).
- G. Alleged acts of noncompliance must be based on either:
 - 1. The personal observation of the Sheriff or designee, code enforcement officer, or Clackamas County Department of Finance staff; or;
 - 2. A determination by the Sheriff or designee, code enforcement officer, or Clackamas County Department of Finance staff that there are reasonable grounds to conclude that the alleged acts of noncompliance did, in fact, occur, after either an investigation or following a sworn statement of a person who personally witnessed the alleged incident.

8.10.110 Penalties

Violation of this chapter shall be punishable by suspension or revocation of a short-term rental registration, or by a penalty or fine in an amount set by resolution of the Board of County Commissioners. Except in the case of an emergency revocation, any owner may not obtain or renew a short-term rental registration on the premises sooner than one year after the date of revocation.

Fritzie, Martha

From: Paul Edgecombe <paul.j.edgecombe@gmail.com>
Sent: Monday, October 19, 2020 10:56 AM
To: Rogalin, Ellen; Fritzie, Martha
Subject: Re: Clackamas County short-term rental hearing dates set

Follow Up Flag: Follow up
Flag Status: Completed

Warning: External email. Be cautious opening attachments and links.

Hi. I'm glad to see that all your work here is back in motion. Thanks for your continued focus on this topic. I will not be attending the upcoming Zoom meetings, so I'd like to submit a suggestion via email comments.

I reread the comments attached to the last meeting packet. It is clear that there are people in the STR business that take their responsibilities seriously and provide a great deal of value to our communities. It is also clear that there are some STR operators who are negligent, especially when it comes to the "party houses", and this is having a very negative impact on the communities where those STRs are located. I previously submitted comments about some operators using their STRs to skirt Clackamas County regulations. One example of this would be Zoning and Development Ordinance 806, *Home Occupations to Host Events*. Is a STR operator who allows large gatherings at their STR on a weekly basis in the STR business only? Or do they also have a *Home Occupation to Host Events* business? To address many of the concerns expressed about "party houses", here is my suggestion: Add a clause to the STR regulations that says, "If a STR operator allows a renter to use the STR for an activity that is subject to regulations by Clackamas County Zoning and Development Ordinances, the STR operator is responsible for compliance with the applicable ordinances." Then add a definition for what constitutes an "event" at a STR (e.g. a gathering of over 20 people or a gathering over 2X the STR guest maximum). Reading through ZDO 806, it would seem that compliance with those regulations by a STR operator would address many of the concerns about "party houses", particularly in the areas of noise and parking.

Thanks for taking my input. Good luck with the rest of the process. Your diligence is appreciated.

On Wed, Oct 14, 2020 at 2:26 PM Rogalin, Ellen <EllenRog@clackamas.us> wrote:

Good afternoon,

Yesterday the Board of County Commissioners approved a schedule for public hearings and meetings on proposed code changes to allow for and regulate short-term/vacation rentals. The public will have a chance to comment either in writing or at any of the hearings, all of which will be held on Zoom.

- Public meetings on *establishing a registration program and regulations* in the County Code for short-term rentals:

- First Reading of Ordinance No. _____
Short Term Rentals
- Page 2 of 61
- 10 a.m., Thursday, Nov. 5: Board of Commissioners business meeting -- first reading; public comments welcome
 - 10 a.m., Thursday, Nov. 19: Board of Commissioners business meeting -- second reading; public comments welcome
- Public hearings on *permitting short-term rentals in unincorporated Clackamas County* by amending the county's Zoning & Development Ordinance (ZDO)
 - 6:30 p.m., Monday, Nov. 23: Planning Commission meeting and public hearing; public testimony welcome
 - 9:30 a.m., Wednesday, Dec. 9: Board of Commissioners Land Use Hearing; public testimony welcome
 - 10 a.m., Thursday, Dec. 17: Board scheduled to take action on the proposed ZDO amendments at its regular business meeting

People who have comments but are not able to attend a hearing are welcome to submit their comments by email or US Mail, before the hearing, to Principal Planner Martha Fritzie at mfritzie@clackamas.us or Planning & Zoning, Development Services Building, 150 Beaver Creek Road, Oregon City, OR 97045.

You can see the Oct. 13 Board policy session [here](#) and read the staff report [here](#).

The draft regulations and details of upcoming public hearings are available at www.clackamas.us/planning/str. Information on how to connect to meetings and hearings on Zoom will be posted one week before each event.

We'll keep you posted about any additional or changed information on this process. Thank you.

Ellen Rogalin, Community Relations Specialist

Clackamas County Public & Government Affairs

Transportation & Development | Business & Community Services

503-742-4274 | 150 Beaver Creek Road, Oregon City, OR 97045

Office hours: 9 am – 6 pm, Monday-Friday

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[Spam Email](#)

[Phishing Email](#)

Fritzie, Martha

From: Heidi Brewer <hmbwolf@yahoo.com>
Sent: Sunday, October 18, 2020 1:27 PM
To: Fritzie, Martha
Subject: Short term and vacation rentals

Warning: External email. Be cautious opening attachments and links.

I am concerned about allowing more short term and vacation rentals. I live next to a vacation rental, it is noisy and annoying, and I never know who will be there or when. It bothers me not knowing who my neighbors are or what they are like. They have no investment in the neighborhood and don't care about it. Even the people who own the houses live elsewhere and the rentals they have here are only an income to them or at the best a place to go on the weekends. That's not a true home the way it is for those of us who live here, and they don't feel the same way or respect it as much as we do.

I moved onto the mountain 18 years ago for the peace and quiet and my neighbors were here for the same reasons. I do not want my home overrun by strangers who don't respect or care about my home.

Heidi Brewer
20465 East Donny Dell Lane
Rhododendron OR 97049

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[Spam Email](#)

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Fritzie, Martha

From: John Ingersoll <john@highcascade.com>
Sent: Thursday, October 15, 2020 11:20 AM
To: Hughes, Jennifer
Cc: Fritzie, Martha; Blane Skowhede
Subject: STR, Government Camp, Resort Accommodation

Follow Up Flag: Follow up
Flag Status: Completed

Warning: External email. Be cautious opening attachments and links.

Jennifer,

I see the Clackamas STR regulations are going forward. In our June 2020 Zoom meeting regarding my new Government Camp Duplex project, the issue came up about STR parking. You saw the Government camp issue and conflict of "Resort Accommodations" buildings in the RTC commercial zone and assigned "on street parking" and how the proposed off-street STR regulations would not allow that parking. You said if the STR regulations move forward (they were tabled at that point) you realized the conflict and would address that Govt Camp issue and would not forget it (those are my notes). i went ahead with my duplex design review application based on that meeting and conversation .

Additionally, there are several buildings in the RTC of Government camp that are currently STR that have and use assigned on street parking. Including the condos above Govy General store managed by Timberline. I also have another Resort accommodation STR lodge in the RTC and some of my assigned parking is on street. Boardwalk is a 40-bed lodge and i paid \$4760.00 in 2019 transient taxes and have been paying county transient taxes since 2000.

i send this as a reminder..

Thanks for your time back in June and getting your mind around this issue.

Kind regards,

PS: i sent a similar and more detailed email to martha and i think you on 3/19. i will forward that again.

BOARDWALK
- LODGE -

John Ingersoll Owner and Manager

t: 503.501.7500

e: john@highcascade.com

I am a confident, vibrant and respectful man. 11/19/94

Fritzie, Martha

From: Michael Rysavy <mrysavy@gmail.com>
Sent: Wednesday, October 14, 2020 4:23 PM
To: Fritzie, Martha
Cc: Bernard, Jim
Subject: Short Term Rental Comments

Follow Up Flag: Follow up
Flag Status: Completed

Warning: External email. Be cautious opening attachments and links.

Dear Martha Fritzie & Commissioner Bernard,

Among the core rights that a property owner has is the right to lease or rent the property. This right has long been recognized by the courts.(1) For example, the Supreme Court of Connecticut has explained that the “right to rent” is one of the important “sticks” in the bundle of property rights, stating: [It] is undisputable that the right of property owners to rent their real estate is one of the bundle of rights that, taken together, constitute the essence of ownership of property.... Owners of a single-family residence can do one of three economically productive things with the residence: 1. live in it; 2. rent it; or 3. sell it.(2)

The inherent nature of this right to rent is supported by a leading treatise, Thompson on Real Property, which observes that “the right to lease property is an incident of ownership.”(3)

Short-term rental regulations can infringe upon this fundamental property right in many ways, including 1. outright bans on short-term rentals, 2. licensing requirements, and 3. mandatory inspection requirements.

1. **Outright Ban on Short-Term Rentals:** Some communities have considered banning short-term rentals altogether. An outright ban on short-term rentals could be county-wide, or may be limited to certain zoning districts or neighborhoods. It can also apply only to certain types of residential units, such as single-family homes or multifamily buildings. Regardless of what form it takes, for the owners of property that cannot be used as a short-term rental, a ban on short-term rentals is an outright deprivation of their right to rent their home on a short-term basis.

I would oppose a proposed ban on short-term rentals, whether County-wide or limited in scope, on the ground that it would deprive affected property owners of their core property right to rent their property on a short-term basis.

2. **License Requirements:** Short-term rental regulations can also infringe upon the right to rent by making it unlawful for an owner to rent their property on a short-term basis without a license. A licensing requirement typically requires the payment of a licensing fee and makes any violation a misdemeanor punishable by fine, with each day constituting a separate offense. In general, a license is defined as “permission or privilege to do what otherwise would be unlawful.” (4) By preventing property owners from renting out private property on a short-term basis unless they obtain a license, a licensing requirement effectively treats the right to rent as if it were a mere privilege, like conditioning the right to drive a car upon passing a test and obtaining an “operator’s license,” rather than an inherent right of property ownership.

I oppose short-term rental license requirements on the ground that such requirements impair a core right of private property ownership, namely the right to rent. I would also argue that a license requirement improperly treats short-term rentals as an activity that is unlawful and requires a privilege of license to exist, contrary to the principles of private property.

3. Inspection Requirements: Short-term rental regulations can also require that the home be inspected for compliance with applicable building, zoning, and property maintenance codes before a permit or license will be issued. For affected property owners and tenants, a mandatory inspection provision that does not require that the inspectors obtain a warrant to inspect a short-term rental property without the consent of the owner or occupant, raises serious concerns under the Fourth Amendment of the U.S. Constitution. Key point: The U.S. Supreme Court has made clear that the Fourth Amendment applies not only to criminal searches, but also to civil searches, including municipal code inspections.(5) Therefore an “administrative warrant” is required before an inspection may be made without the consent of the owner or occupant.

I oppose any mandatory inspection requirement that does not require the local government inspector to obtain a search warrant if consent to inspect the property is not granted by the owner or occupant.

4. Limited Scope of Zoning Authority: While most short-term rental regulations are adopted as a general regulation under the local government’s “police power,” some communities have instead chosen to regulate short-term rentals under their zoning code. The problem with this approach is that the regulation of short-term rentals does not fall within the scope of local zoning authority. The reason is that a key characteristic of local zoning power is the long-established principle that “zoning deals with land use, not the owner, operator, or occupant of the land.”(6) Zoning inherently pertains to land rather than to the landowner, or user—it “deals basically with land use and not with the person who owns or occupies it.”(7)

Zoning regulation of short-term rentals violates this fundamental principle in that it focuses not on the use of land, but on the form of one’s interest in property (i.e., owner or renter) and the duration of the occupancy (e.g., short-term vs. long-term).

I take the position that regardless of whether a home is occupied by an owner or renter, and regardless of whether the occupancy is long-term or short-term, the use of a single-family home for living purposes is a residential use.(8) Therefore, any zoning ordinance that regulates single-family homes differently based solely on the occupant’s interest in property (owner or renter), or the duration of the occupancy (short-term vs. long-term)—as short-term rental regulations do—violates the fundamental principle that zoning deals with land use, not the user of the land.

5. Short-Term Rentals Are a Residential Use, Not a Commercial Use: Opponents often argue that short-term rentals could not be allowed in residential zoning districts because they are a commercial use that is incompatible with the character of residential neighborhoods. However, courts in many states have ruled that short-term rentals are residential use, not a commercial use. For example, the Maryland Court of Appeals rejected a claim that because a restrictive covenant required that all lots in a subdivision be used for “single family residential purposes only,” that meant short-term rentals were prohibited. The court concluded that the covenant plainly allowed residential rentals regardless of whether the rental was for a short term or a long term, explaining that the transitory or temporary nature of a short-term rental does not change the residential status of the use:

“Residential use,” without more, has been consistently interpreted as meaning that the use of the property is for living purposes, or a dwelling, or a place of abode.... The transitory or temporary nature of such use does not defeat the residential status.(9)

Courts in other states have similarly ruled that residential rentals, no matter how long the term, are a residential use because the renter uses the home for the same purpose as the owner.(10) The courts have also rejected the

argument that short-term rentals are not a residential use because the homeowner earns rental income by renting out his or her home. The Maryland Court of Appeals, for example, explained: “While the owner may be receiving rental income, the use of the property is unquestionably ‘residential.’ The fact that the owner receives rental income is not, in any way, inconsistent with the property being used as a residence.”(11)

I would counter the argument that short-term rentals are a commercial use that could not be allowed in residential neighborhoods by pointing out that courts in many states have ruled that short-term rentals are residential use, not a commercial use.

6. Local Contact Person Requirements: Short-term rental regulations frequently require the owner to designate a local contact person who must be available 24 hours a day, 7 days a week to respond in-person to any complaints regarding a short-term rental property. By forcing a local contact person to respond to complaints about a short-term rental property, such provisions inappropriately shift the government’s code enforcement responsibilities onto civilians who are not trained or equipped to respond on short notice to complaints. Moreover, to the extent that it requires a local contact person to confront badly behaving tenants and their guests in response to a complaint, an in-person response requirement would place the local contact person at risk of physical harm or potential liability. Local government officials need to give serious consideration to the potential consequences of compelling a local agent to personally confront a tenant about such a complaint.

I oppose any short-term rental regulation that requires a local contact person to be available 24 hours a day, 7 days a week, to respond in-person to complaints regarding a short-term rental property on the ground that such requirements unreasonably place local contact persons at risk of physical harm.

Citations:

1 See J.E. Penner, The “Bundle of Rights” Picture of Property, 43 UCLA L. REV. 711 (1996) (noting the conventional “bundle of rights” formulation and various views of the “bundle of rights”). 2 *Gangemi v. Zoning Bd. of Appeals of the Town of Fairfield*, 763 A.2d 1011, 1015-16 (Conn. 2001) (citing J. DUKEMINIER & J. KRIER, PROPERTY at 86 (3d ed. 1993) (stating (“[property] consists of a number of disparate rights, a ‘bundle’ of them: the right to possess, the right to use, the right to exclude, the right to transfer”) (emphasis added)). 3 THOMPSON ON REAL PROPERTY § 14.02(a) (2016, Matthew Bender & Company, Inc.) (citing *Norwest Bank Arizona v. Superior Court In and For County of Maricopa*, 963 P.2d 319, 323 (Ariz. 1998) (right to rent under a lease of real property is an incorporeal hereditament that is an incident to an estate in land); *Magnolia Petroleum Co. v. Carter*, 2 So. 2d 680 (La. App. 1941); *Assessors of West Springfield v. Eastern States Exposition*, 93 N.E.2d 462 (Mass. 1950); *Attorney General v. Pere Marquette Ry. Co.*, 248 N.W. 860 (Mich. 1933)) 4 MCQUILLIN MUN CORP § 26:2 (Municipal Licenses and Permits – Definitions; nature of municipal license) (3d ed). 5 *Camara v. Municipal Court of City & County of San Francisco*, 387 U.S. 523, 534 (1967) 6 RATHKOPF’S THE LAW OF ZONING AND PLANNING § 2:16 (Zoning regulates the use of land—Identity or status of land users) (citing cases in Connecticut, Iowa, Louisiana, Maryland, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, and Washington) (emphasis added). 7 See *FGL & L Prop. Corp. v. City of Rye*, 485 N.E. 986, 989 (N.Y. 1985). 8 *Lowden v. Bosley*, 909 A.2d 261, 267 (Md. 2006) 6 RATHKOPF’S THE LAW OF ZONING AND PLANNING § 2:16 (Zoning regulates the use of land—Identity or status of land users) (citing cases in Connecticut, Iowa, Louisiana, Maryland, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, and Washington) (emphasis added).

This is an overview of comments made by the National Association of Realtors, with my modifications and concurrence.

Michael Rysavy
Clackamas County Property Owner

Fritzie, Martha

From: Allison Covington Wibby <Radhatr@comcast.net>
Sent: Thursday, October 15, 2020 12:01 AM
To: Fritzie, Martha
Subject: No to STR Regulations

Follow Up Flag: Follow up
Flag Status: Completed

Warning: External email. Be cautious opening attachments and links.

This needs to be put on the back burner Until we have at least been out of COVID for a year. Do not put more financial-administrative restrictions on people at this time. Many people are in a really dire situation all across this state. This should not be a priority, we have a lot more important things to be thinking about right now.

Allison Wibby

--
BEGIN-ANTISPAM-VOTING-LINKS

Teach CanIt if this mail (ID 043E70Xdr) is spam:

Spam Email: <https://mhub.clackamas.us/canit/b.php?c=s&i=043E70Xdr&m=474433a67fc0&rlm=base&t=20201015>
Phishing Email: <https://mhub.clackamas.us/canit/b.php?c=p&i=043E70Xdr&m=474433a67fc0&rlm=base&t=20201015>

END-ANTISPAM-VOTING-LINKS

Fritzie, Martha

From: Carol Cookson <cookson.carol@gmail.com>
Sent: Wednesday, October 14, 2020 3:58 PM
To: Fritzie, Martha
Subject: Short-term rental public hearing

Follow Up Flag: Follow up
Flag Status: Completed

Warning: External email. Be cautious opening attachments and links.

I wouldn't mind paying a registration fee if it were assessed based on my rental revenue instead of a flat rate. Someone who makes 12,000 a year pays an \$800 fee which is reasonable for the amount of revenue, however for someone like me that has an annual revenue of \$5000 it's too steep. The current fee that we pay to Clackamas county tourism is a % of revenue and is a more equitable method of calculating a fee.

Our short-term rental has not been open this year at all because of COVID19. Would we still have to pay the fee when we have had no revenue?

Carol Cookson

[Spam Email](#)
[Phishing Email](#)

Fritzie, Martha

From: Melissa Long <MLong@rsd7.net>
Sent: Wednesday, October 14, 2020 3:11 PM
To: Fritzie, Martha
Subject: Short-term Rental Comment

Follow Up Flag: Follow up
Flag Status: Completed

Warning: External email. Be cautious opening attachments and links.

Hello!

I am an owner of a short term rental. I pay my lodging taxes monthly, but know many other rental owners do not. This is a big source of missed income for Clackamas County. I propose that you have Airbnb and/or VRBO etc. take the taxes out for you through their platforms and submit them to Clackamas County. That way the taxes are taken out automatically and the lodging taxes are guaranteed to be paid. I do not know the process for making sure Airbnb, etc. do this but I do know that they do it for Multnomah County already and Baker County among many others, so they are definitely able to do it for Clackamas County!

Just a suggestion to make sure renters adhere to paying the lodging fees.

Thanks,
Melissa Long
503-327-3218

[Spam Email](#)
[Phishing Email](#)

Fritzie, Martha

From: jondterry@yahoo.com
Sent: Wednesday, October 14, 2020 2:44 PM
To: Fritzie, Martha
Subject: Short term rentals

Follow Up Flag: Follow up
Flag Status: Completed

Warning: External email. Be cautious opening attachments and links.

My neighbors, and coworkers main issue with the regulation of short term rentals are related to affordable housing.

All politicians agree that affordable housing is an issue that needs to be addressed. Short term rentals drive up long term rental prices and annihilate availability.

Who would choose to rent a 3 bedroom house for \$1500 a month, when they can make \$6000 per month using short term rentals?

I live in the Mt. Hood foothills (Rhododendron), and I have watched the cost of rent nearly double in less than 10 years. I struggle to hire new employees at the ski resort I work at, because those wanting to move here cannot find anywhere to live.

I have had employees living in their cars for months while looking for a house to rent, with zero availability, only to give up and leave the area.

I bought a home, because it became cheaper than renting, and because I literally could not find a place to rent even if I could afford to pay more. Not everybody has that option, especially with people buying up all the homes to use as business opportunities, driving up the cost of homes all over the Mt Hood area. In my neighborhood of over 500 houses, there were zero up for sale last week.

Please, please, please consider affordable long term home rentals in our area and restrict the use of short term rentals in the mount hood area to those who are living on property or adjacent to that property as you have proposed for the Portland Metro area. There are many other negative effects of short term rentals in our community, but none of the meetings I've watched in this process have even touched on this elephant in the room.

Thanks for your time,

Jonathan Terry

503-894-4866

64833 E. Mountain Meadow Ln.

Rhododendron, OR 97049

[Sent from Yahoo Mail for iPhone](#)

[Spam Email](#)
[Phishing Email](#)

Fritzie, Martha

From: Rogalin, Ellen
Sent: Wednesday, October 14, 2020 1:58 PM
To: Hughes, Jennifer; Fritzie, Martha
Cc: Bell, Cheryl; Johnson, Dan
Subject: FW: Clackamas County short-term rental hearing dates set

FYI – the email below was just sent to STR interested parties.

Ellen Rogalin, Community Relations Specialist

503-742-4274

Office hours: 9 am – 6 pm, Monday-Friday

From: Rogalin, Ellen <EllenRog@clackamas.us>
Sent: Wednesday, October 14, 2020 1:57 PM
To: Rogalin, Ellen <EllenRog@clackamas.us>
Subject: Clackamas County short-term rental hearing dates set

Good afternoon,

Yesterday the Board of County Commissioners approved a schedule for public hearings and meetings on proposed code changes to allow for and regulate short-term/vacation rentals. The public will have a chance to comment either in writing or at any of the hearings, all of which will be held on Zoom.

- Public meetings on *establishing a registration program and regulations* in the County Code for short-term rentals:
 - 10 a.m., Thursday, Nov. 5: Board of Commissioners business meeting -- first reading; public comments welcome
 - 10 a.m., Thursday, Nov. 19: Board of Commissioners business meeting -- second reading; public comments welcome
- Public hearings on *permitting short-term rentals in unincorporated Clackamas County* by amending the county's Zoning & Development Ordinance (ZDO)
 - 6:30 p.m., Monday, Nov. 23: Planning Commission meeting and public hearing; public testimony welcome
 - 9:30 a.m., Wednesday, Dec. 9: Board of Commissioners Land Use Hearing; public testimony welcome
- 10 a.m., Thursday, Dec. 17: Board scheduled to take action on the proposed ZDO amendments at its regular business meeting

People who have comments but are not able to attend a hearing are welcome to submit their comments by email or US Mail, before the hearing, to Principal Planner Martha Fritzie at mfritzie@clackamas.us or Planning & Zoning, Development Services Building, 150 Beaver Creek Road, Oregon City, OR 97045.

You can see the Oct. 13 Board policy session [here](#) and read the staff report [here](#).

The draft regulations and details of upcoming public hearings are available at www.clackamas.us/planning/str. Information on how to connect to meetings and hearings on Zoom will be posted one week before each event.

We'll keep you posted about any additional or changed information on this process. Thank you. First Reading of Ordinance No. ____
Short Term Rentals

Ellen Rogalin, Community Relations Specialist

Clackamas County Public & Government Affairs

Transportation & Development | Business & Community Services

503-742-4274 | 150 Beavercreek Road, Oregon City, OR 97045

Office hours: 9 am – 6 pm, Monday-Friday

Fritzie, Martha

From: Hildick, Sue
Sent: Tuesday, October 13, 2020 4:17 PM
To: Rogalin, Ellen
Cc: Fritzie, Martha; Hughes, Jennifer; Bell, Cheryl; Johnson, Dan
Subject: Re: Follow-up to today's policy session

Response is that our agendas clearly say they are flexible to Board's needs and that's why there is both a video and audio recording. Tuesday's are apparently the most fluid. I made your point Ellen and agree with it so we will keep working on it.

Thank you. Sue

Sent from my iPhone

On Oct 13, 2020, at 3:49 PM, Rogalin, Ellen <EllenRog@clackamas.us> wrote:

I'll draft web text and a news release with the dates of the meetings and hearings, and send to you for your review.

FYI – so far I have received 8 emails from people who were planning to attend the 3 p.m. policy session and tuned in just in time to hear it end. They want to know what happened and if there is a recording. I'm responding to all, but just want you to know that there are a few people who are a bit irritated about this. I hope we can assure people that the upcoming meetings and hearings will start at the specified time or shortly after, not before... 😊

Ellen Rogalin, Community Relations Specialist

Clackamas County Public & Government Affairs

Transportation & Development | Business & Community Services

503-742-4274 | 150 Beaver Creek Road, Oregon City, OR 97045

Office hours: 9 am – 6 pm, Monday-Friday

Fritzie, Martha

From: Ned Dobner <ned.dobner@vacasa.com>
Sent: Tuesday, October 13, 2020 3:29 PM
To: Fritzie, Martha
Subject: Meeting today

Follow Up Flag: Follow up
Flag Status: Completed

Warning: External email. Be cautious opening attachments and links.

Hi Martha,

Is the Zoom meeting on STR still on for today?
Cannot login in or connect by phone.
Thanks!
Ned Dobner



Ned Dobner | Sales Executive
c: 971-275-3789 e: ndobner@vacasa.com
vacasa.com

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[Phishing Email](#)

Fritzie, Martha

From: Megan Rooksby <meganrooksby@gmail.com>
Sent: Tuesday, October 13, 2020 3:21 PM
To: Rogalin, Ellen; Elaine Maxey; Fritzie, Martha; Savas, Paul; Schrader, Martha
Subject: Re: STR - impact on affordable housing- unincorporated clackamas county

Follow Up Flag: Follow up
Flag Status: Completed

Warning: External email. Be cautious opening attachments and links.

Hi Ellen,

I logged into the zoom call today at 3pm regarding short term rentals but the meeting was not in session and the commissioners were logging off. What happened?

Will the meeting be rescheduled for public comment on the draft regarding short term rentals?

Thank you,

Megan Rooksby
Resident 97267
503-753-1580

On Tue, Oct 8, 2019 at 10:00 AM Megan Rooksby <meganrooksby@gmail.com> wrote:
Thank you Ellen.

On Tue, Oct 8, 2019 at 9:58 AM Rogalin, Ellen <EllenRog@clackamas.us> wrote:

Good morning Megan,

Thank you for sharing your thoughts and analysis related to the issue of short-term rentals. Your email will be included in the record for this issue and be shared with the Board of County Commissioners.

The Board of Commissioners will be discussing this issue again at a Policy Session on Tuesday, Oct. 22, at 11 a.m. The public is welcome to attend to listen. We'll keep you posted about other meetings and opportunities for public input. More information is available on the project webpage at <https://www.clackamas.us/planning/str>.

Thank you.

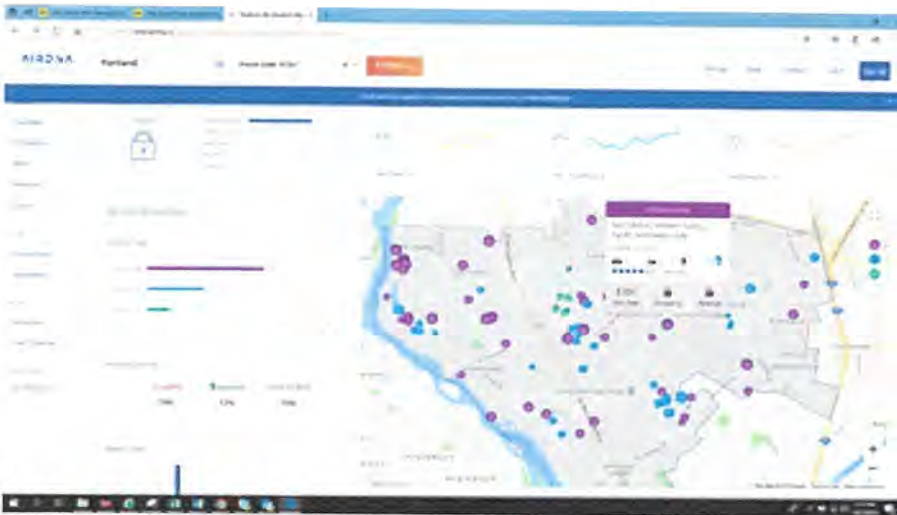
503-742-4274

Office hours: 9 am – 6 pm, Monday-Friday

From: Megan Rooksby <meganrooksby@gmail.com>
Sent: Monday, October 7, 2019 4:54 PM
To: Savas, Paul <PSavas@clackamas.us>; Moreland, Tracy <TracyMor@clackamas.us>; Fritzie, Martha <MFritzie@clackamas.us>; Rogalin, Ellen <EllenRog@clackamas.us>
Subject: STR - impact on affordable housing- unincorporated clackamas county

Good Afternoon Commissioners,

Thank you for allowing me a moment to share with you an analysis of one zip code in unincorporated Clackamas county where 86 active short term rentals are available now, with 59% or 51 houses being operated as a full time turn key business with no owner on site or unoccupied.



That's 51 homes in one zip code that are unavailable for a nice family to rent long term or to purchase. 29% of the listings shown above offer a private room in an owner occupied dwelling and 12% offer a shared room for let. You can also see by the map that this zip code is a non tourism driven area and should not be compared to an area like Mt. Hood, Welches, Sandy etc... It is comprised of neighborhoods with seniors and single family home owners, some who have lived here since the early 1970's who are being subjected to the commercialization of their neighborhood, condominium or apartment complex due to the undefined expansion of short term rentals which has gone unchecked over the last 10 years of it's creep into non vacation areas. Home inventories are low in this zip code and the median average home cost continues to drive home buyers further out of the area.

I've listened with intent to the county commission podcasts and I appreciate the discussion or talking points about the concern for neighborhoods, its livability and concern to provide more housing options to people in unincorporated clackamas county but I don't see how allowing STR in the urban growth boundary is focused on solving for any of those issues. I believe in the value of vacation rentals in longstanding tourism driven destinations. The questions should really be where is it allowed, does it compete with other long standing businesses such as hotel and lodging businesses, does it affect long term rental availability and does it provide any good to the communities in which it operates or cause harm? In my opinion, allowing vacation rentals or STR's to operate unoccupied within the urban growth boundary is outrageous and indecent to neighbors who must simply accept that this burden has been put on them without any rights to fight or defend against this movement. The affect of STR's has come to their doorstep without protection of their rights to live in a neighborhood that is not being torn apart by outside or inside commercialization without regard to the impacts it has on them.

As I shared previously the article regarding DC rulings on STR's, the citizens there are fighting the same battle of limited affordable housing and increased costs of rentals as a result of STR. Why is it okay for one neighbor to rent their home every couple of days for profit on the backs of the neighbors who are forced to deal with the effects of something that has never been allowed before? Where is the compensation for the burden STR owners are placing on the neighborhood and how will restitution be obtained? Where is the protections for those who don't speak out and yet detest the degeneration of neighborhood as a result of STR's? Are STR renters neighbors? I would suggest no, they are not. Do they contribute to the safety and security of a neighborhood, participate in community events, volunteer their time, support local business all year long or stand up for policy or a lack there of? Again, no.

While the commission considers the question of whether the County STR code is enforceable, the answer is yes. Simply do not allow full time non owner occupied businesses to operate in certain areas that are not tourism/ vacation driven. For those who are not compliant, a hefty fee will be imposed and collected by the county. The neighborhoods will likely point those properties out very quickly and easily. For those who are the primary owner and live in the dwelling, let them self register and pay a tax to the county without issue, whereby retaining the existing rules on bed and breakfast that already exist in the county code. The only thing that needs to be added are the fines, restrictions and enforcement. For STR's that are allowed in a vacation zone, a large sign should be placed outside the dwelling during the application period for no less than 30 days, outlining what will happen and what rights neighbors have to petition and in what format. Tax revenues collected from vacation STR's should be used for application, additional policy staff on the mountain and tourism areas. Additional tax revenues from applicants for business licences using their homes in owner occupied STR's could be used to fund addition FTE resources or sherrif support staff for enforcement. The county could also establish a volunteer committee to help provide oversight and enforcement of the rules put in place due to the concerns of limited funding to manage the program perhaps through a grant of support from the Oregon Lodging Association.

Thank you for allowing me a few moments of your time to present facts on the impacts STR is having on affordable housing in just one Clackamas County

zip code today. Consider how many more homes could be on the market or available to rent long term if STR's where not allowed in zones not designated as tourism areas?

Megan Rooksby

Unincorporated Clackamas County Resident

503-850-6992

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

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Fritzie, Martha

From: Todd Gentry <tcgentry63@gmail.com>
Sent: Thursday, June 18, 2020 8:37 PM
To: Fritzie, Martha
Subject: Short term rental regulations

Warning: External email. Be cautious opening attachments and links.

Dear County Commissioners:

We are a homeowner at Collins Lake Resort in Government Camp and have read the county's proposed regulations regarding short-term rentals. The proposed regulations and associated fees do not take into consideration the fact that our Condominium Association and our on-site management company already have rules and regulations that address the concerns in the draft ordinance. Our Condominium Association's governing documents, including our Declaration and Bylaws, already outline the rules and regulations for this tourism-driven community. When purchasing our condo, we were aware of and supported the rules and regulations regarding short-term rentals, and we have continued to support refinement of those rules through participation in our Condominium Association. Collins Lake Resort was designed for short-term rentals and is integral to the success of tourism in and around Government Camp. This is an unnecessary and redundant set of regulations for our Condominium Association. We strongly encourage the County Commissioners to exempt our Condominium Association from the proposed registration process and fees.

Sincerely,

Todd and Laura Gentry

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[Phishing Email](#)

Fritzie, Martha

From: Fran mazzara <franmazzara@gmail.com>
Sent: Sunday, May 24, 2020 9:42 PM
To: Jim Bernard; Ken humberston; Cowan, Danielle; Fritzie, Martha; Savas, Paul; Schrader, Martha; tfischer@clackamas.us
Subject: some insight.... FYI

Warning: External email. Be cautious opening attachments and links.

https://nextdoor.com/news_feed/?post=148320131&cp=1&s=tpd§ion=posts&ct=GiLDLtC35fEXg_2M3XbYZ0m_SvFlxcGF1CslZuBe1TIKxMrF0h7-wihWkKc_Aeuc&ec=VxSJFbPbudqm3RmbqsRSIdKGxZqCXtJSS-0vyqMERec%3D

Anyone want to comment....and we thought July was going to give us a voice and give the Sheriff's Dep't.and code enforcement a way to help us.

--

Fran & Joe Mazzara
25901 E. Highview Drive
Welches, Or 97067
franmazzara@gmail.com
503.622.1140

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[Phishing Email](#)

Fritzie, Martha

From: Judy <jjcave@frontier.com>
Sent: Friday, May 22, 2020 11:50 AM
To: Rogalin, Ellen
Cc: Fritzie, Martha
Subject: RE: Update on possible regulations of short-term rentals

Warning: External email. Be cautious opening attachments and links.

A "drastic" drop in demand for short-term rentals? Really? Not up here in the Hoodland area. We have three full time short term rentals on our street alone. The one directly across the street has had activity all week. The last renter left yesterday. The cleaning people are there now, preparing for tonight's arrivals. The house next door has had 2 cars in the driveway all week. One car has Washington plates and the other has California plates. Hmmmm... do you really think they are from the same household? Social distancing at its finest. This house is a 3 bed, 1 bath property. A minimum of 4 people sharing 1 bathroom. A few weeks ago, there were 5 or 6 cars there for the weekend.

Everyone I have spoken to lately is absolutely dreading this weekend. Starting as early as Wednesday, we have had motorhomes, travel trailers, campers, boats, cars with kayaks and canoes on their roofs all traveling through our community. Yesterday the traffic was extremely heavy. I had to run into the local grocery store and it was jam-packed with tourists, most of whom were not wearing masks. Today I will not get out on Hwy 26 because the traffic will be too heavy to be safe. If we drive the speed limit of 45, we are tailgated, flashed, flipped off, passed and cut in front of. God help anyone who has to cross the highway on foot.

In case you were not aware, there was an incident at a short term rental recently. A woman shot her boyfriend in the neck. That meant first responders had to show up and deal with them. If they hadn't been allowed to rent in the first place, our first responders wouldn't have been put in harm's way.

People ask why the beaches can be closed, why the short term rentals at the coast could be shut down, but not up here. My response is because the coastal communities have put regulations into place. "***You cannot control what you do not regulate.***" Because Clackamas County has been so derelict as to allow this to happen without regulation, our communities up here are paying the price. You say there is no revenue from rentals. Perhaps because the short term property owners are not paying the occupancy tax?

Frankly, I am beyond livid that our tax dollars to Clackamas County do absolutely no good for our community.

Judy Cave

From: Rogalin, Ellen [mailto:EllenRog@clackamas.us]
Sent: Wednesday, May 20, 2020 9:13 AM
To: Rogalin, Ellen
Cc: Fritzie, Martha
Subject: Update on possible regulations of short-term rentals

Good morning,

Yesterday the Board of County Commissioners agreed to delay for six months (until Nov. 17, 2020) any further action on possible regulations for short-term rentals in unincorporated Clackamas County. The action was taken because of the changed circumstances brought about by the COVID-19 pandemic, including:

- Almost total loss of revenue for the county’s Tourism Department, which was going to help fund start-up costs for a possible short-term rental registration program
- Dramatic drop in demand for short-term rentals

The status of short-term rentals in the county will continue to be as it has been, with no registration program or specific regulations except for the requirement to pay Transient Lodging Tax to the county's Finance Department (see details [here: https://www.clackamas.us/finance/transient.html](https://www.clackamas.us/finance/transient.html)) . On November 17, the Board of Commissioners will again discuss the issue of possibly regulating short-term rentals based on the situation at that time.

Regulations as currently drafted will remain on the website at www.clackamas.us/planning/str. We will notify you when this issue is brought before the Board again or if there are other changes. For more information, contact Senior Planner Martha Fritzie at mfritzie@clackamas.us.

Thank you for your interest. Take care.

Ellen Rogalin, Community Relations Specialist

Clackamas County Public & Government Affairs

Transportation & Development | Business & Community Services

503-742-4274 | 150 Beaver Creek Road, Oregon City, OR 97045

Office hours: 9 am – 6 pm, Monday-Friday

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[Phishing Email](#)

Fritzie, Martha

From: Fran mazzara <franmazzara@gmail.com>
Sent: Thursday, May 21, 2020 5:56 PM
To: Fritzie, Martha
Cc: Jim Bernard; Ken humberston; Rob Bruce; Cowan, Danielle; Rogalin, Ellen
Subject: Re: why did you string us along????

Thank you for responding to my angry tirade...but we are left high and dry. If there are no codes, laws, regulations...there is nothing we can report to Code Enforcement. As to Covid rules...the only rules we see are a request for "distancing" and a request not to do any unnecessary traveling. The third being confining groups to households.

They come on Friday night and leave Sunday by noon. The crowds arrive late in the evening and are gone in the wee hours as the parties wind down. This is throughout Welches, Brightwood and Rhododendron. Who would come out to enforce in the middle of the night? The management and owners swear they are complying and read the State Covid laws to us....they claim they rent to a couple, or 2 couples who live together and they rent to them to provide a respite for them from being locked up all week. So they are now a Mental Health service. They plead ignorance on any others coming out to party. Yet I can show you pictures of the amount of garbage left behind... the only evidence of a night of partying.

These complaints sound frivolous..., we all have had loud, big parties next door. But this is every week, all strangers and unlike a hotel or B&B...no management to shut them off when it becomes too much. And summer has not even started....

We were so depending on you.....,
FRAN & JOE

On Thu, May 21, 2020 at 3:50 PM Fritzie, Martha <MFritzie@clackamas.us> wrote:

Fran - I know you are familiar with our complaint process through Code Enforcement, which is still available, but you can also file a complaint with the county's Environmental Health Department at eh@clackamas.us if there are issues related to businesses not following COVID-19 rules.

That said, staff is also committed to finishing this project and will continue to work with our Board to do so.

Martha

Martha Fritzie, Senior Planner

Clackamas County DTD | Planning & Zoning Division

150 Beaver Creek Road | Oregon City, OR 97045

(503) 742-4529

Office hours 8:00am to 6:00pm | Monday - Thursday

Due to COVID-19, our offices are currently closed to the public. At this time, the closure is expected to continue until at least **Monday, June 1st**. I am working remotely and will do my best to respond in a timely manner. I appreciate your understanding during this challenging time.

If you have general questions, please contact our main customer service desk at 503-742-4500 or via email at zoninginfo@clackamas.us. Thank you.

The Clackamas County Department of Transportation and Development is dedicated to providing excellent customer service. Please help us to serve you better by giving us your [feedback](#). We appreciate your comments and will use them to evaluate and improve the quality of our public service.

From: Fran mazzara [mailto:franmazzara@gmail.com]

Sent: Thursday, May 21, 2020 12:26 PM

To: Jim Bernard <bernardjim@ymail.com>; Ken humberston <gracehumberston@yahoo.com>; Fritzie, Martha <MFritzie@clackamas.us>; Rob Bruce <rrbruce@outlook.com>; Cowan, Danielle <Danielle@mthoodterritory.com>

Subject: why did you string us along????

Warning: External email. Be cautious opening attachments and links.

<https://www.mthoodterritory.com/places-to-stay>

-- Interesting that you *feature STR* while you tell us you are working to control them and waste your and our time with your STR commission and meetings.

You have rules and regulations for hotels, B&B, restaurants,but we get to live with a completely unregulated rental system that you support and advertise. OUR TAXES are paying for this tourism program.....yet as usual...we get the shaft.

None of them are following the distancing guidelines laid out by the State and you have not bothered to do anything the way the rest of Oregon's tourist regions have. Are you gutless wonders, lazy or have some sort of stake in it?

We trusted you and have put up with these overcrowded parties all Winter and Spring, putting our lives at risk as we desperately try to shelter in place and avoid any contact with Covid....But we held on believing come July we would finally have a means to control those that got out of hand. Now we find it was all a hoax...a way to give us lip service until our anger boiled over and the Eastern part of Clackamas County would go back to sleep and serve as the donkeys for your tourism industry.

I am amazed Timberline Lodge and the Mt. Hood Resort have not filed a complaint...they had to shut down, meanwhile STR have been given an unlimited pass and publicity by you. They were ENCOURAGED to deep clean after every guest rental by their listing agent. But 16-20 people sharing a house, partying all night, filling the street...strangers in our neighborhood while we work to protect ourselves is OK with you...THANK YOU!

Fran & Joe Mazzara

25901 E. Highview Drive

Welches, Or 97067

franmazzara@gmail.com

503.622.1140

--

Fran & Joe Mazzara

25901 E. Highview Drive

Welches, Or 97067

franmazzara@gmail.com

503.622.1140

Fritzie, Martha

From: Rogalin, Ellen
Sent: Wednesday, May 20, 2020 1:55 PM
To: Fritzie, Martha
Subject: FW: Update on possible regulations of short-term rentals

A bit more...

Ellen Rogalin, Community Relations Specialist

503-742-4274

Office hours: 9 am – 6 pm, Monday-Friday

From: Jules Huber <jules.huber@vacasa.com>
Sent: Wednesday, May 20, 2020 11:29 AM
To: Rogalin, Ellen <EllenRog@clackamas.us>; Juliet Ham <juliet.ham@vacasa.com>; Eric Nicholson <eric.nicholson@vacasa.com>
Subject: Re: Update on possible regulations of short-term rentals

Warning: External email. Be cautious opening attachments and links.

FYI...good news on the delay with the STRs for Clackamas county.

Best-Jules



Jules Huber | General Manager-Mt Hood/Columbia Gorge/Oregon Wine Country
Direct line [971-373-4082](tel:971-373-4082)
Cell [503-680-2672](tel:503-680-2672)
jules.huber@vacasa.com
Vacation rentals made easy®

On Wed, May 20, 2020 at 9:41 AM Rogalin, Ellen <EllenRog@clackamas.us> wrote:

Good morning,

Yesterday the Board of County Commissioners agreed to delay for six months (until Nov. 17, 2020) any further action on possible regulations for short-term rentals in unincorporated Clackamas County. The action was taken because of the changed circumstances brought about by the COVID-19 pandemic, including:

- Almost total loss of revenue for the county's Tourism Department, which was going to help fund start-up costs for a possible short-term rental registration program
- Dramatic drop in demand for short-term rentals

The status of short-term rentals in the county will continue to be as it has been, with no registration program or specific regulations except for the requirement to pay Transient Lodging Tax to the county's Finance Department (see details [here: https://www.clackamas.us/finance/transient.html](https://www.clackamas.us/finance/transient.html)) . On November 17, the Board of Commissioners will again discuss the issue of possibly regulating short-term rentals based on the situation at that time.

Regulations as currently drafted will remain on the website at www.clackamas.us/planning/str. We will notify you when this issue is brought before the Board again or if there are other changes. For more information, contact Senior Planner Martha Fritzie at mfritzie@clackamas.us.

Thank you for your interest. Take care.

Ellen Rogalin, Community Relations Specialist

Clackamas County Public & Government Affairs

Transportation & Development | Business & Community Services

503-742-4274 | 150 Beaver Creek Road, Oregon City, OR 97045

Office hours: 9 am – 6 pm, Monday-Friday

[Spam Email](#)
[Phishing Email](#)

Fritzie, Martha

From: Fran mazzara <franmazzara@gmail.com>
Sent: Wednesday, May 20, 2020 1:50 PM
To: Rob Bruce; Nancy Dougherty; Fritzie, Martha
Subject: Fwd: Update on possible regulations of short-term rentals

Warning: External email. Be cautious opening attachments and links.

----- Forwarded message -----

From: Fran mazzara <franmazzara@gmail.com>
Date: Wed, May 20, 2020 at 10:11 AM
Subject: Re: Update on possible regulations of short-term rentals
To: Rogalin, Ellen <EllenRog@clackamas.us>

Ellen,
There has been no drop in demand for STR in the Welches area. The parties have been going strong and the incidents have gotten worse.

We all were looking to the July implementation of rules giving us a leg to stand on...we now have been let down, again.

I can appreciate your reasoning, but do not think the demand has gone down...no way!

The explanation now is their guests need STR's to be able to deal with the stress of quarantine, so they are putting haloes on their heads claiming they are providing a mental health service.

FRAN MAZZARA

On Wed, May 20, 2020 at 9:41 AM Rogalin, Ellen <EllenRog@clackamas.us> wrote:

Good morning,

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of Commissioners will again discuss the issue of possibly regulating short-term rentals based on the situation at that time.

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Thank you for your interest. Take care.

Ellen Rogalin, Community Relations Specialist

Clackamas County Public & Government Affairs

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503-742-4274 | 150 Beaver Creek Road, Oregon City, OR 97045

Office hours: 9 am – 6 pm, Monday-Friday

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Fran & Joe Mazzara
25901 E. Highview Drive
Welches, Or 97067
franmazzara@gmail.com
503.622.1140

--

Fran & Joe Mazzara
25901 E. Highview Drive
Welches, Or 97067
franmazzara@gmail.com
503.622.1140

Fritzie, Martha

From: Rogalin, Ellen
Sent: Wednesday, May 20, 2020 1:51 PM
To: Fritzie, Martha
Subject: FW: Update on possible regulations of short-term rentals

And another, from a slightly different perspective.

Ellen Rogalin, Community Relations Specialist

503-742-4274

Office hours: 9 am – 6 pm, Monday-Friday

From: chris.gambell@icloud.com <chris.gambell@icloud.com>
Sent: Wednesday, May 20, 2020 9:55 AM
To: Rogalin, Ellen <EllenRog@clackamas.us>
Subject: Re: Update on possible regulations of short-term rentals

Warning: External email. Be cautious opening attachments and links.

Thanks for nothing, these rentals are destroying our community.

On May 20, 2020 9:13 AM, "Rogalin, Ellen" <EllenRog@clackamas.us> wrote:

Good morning,

Yesterday the Board of County Commissioners agreed to delay for six months (until Nov. 17, 2020) any further action on possible regulations for short-term rentals in unincorporated Clackamas County. The action was taken because of the changed circumstances brought about by the COVID-19 pandemic, including:

- Almost total loss of revenue for the county's Tourism Department, which was going to help fund start-up costs for a possible short-term rental registration program
- Dramatic drop in demand for short-term rentals

The status of short-term rentals in the county will continue to be as it has been, with no registration program or specific regulations except for the requirement to pay Transient Lodging Tax to the county's Finance Department (see details [here](https://www.clackamas.us/finance/transient.html): <https://www.clackamas.us/finance/transient.html>). On November 17, the Board of Commissioners will again discuss the issue of possibly regulating short-term rentals based on the situation at that time.

Regulations as currently drafted will remain on the website at www.clackamas.us/planning/str. We will notify you when this issue is brought before the Board again or if there are other changes. For more information, contact Senior Planner Martha Fritzie at mfritzie@clackamas.us.

Thank you for your interest. Take care.

Ellen Rogalin, Community Relations Specialist

Clackamas County Public & Government Affairs

Transportation & Development | Business & Community Services

503-742-4274 | 150 Beaver Creek Road, Oregon City, OR 97045

Office hours: 9 am – 6 pm, Monday-Friday

[Spam Email](#)

[Phishing Email](#)

Fritzie, Martha

From: Rogalin, Ellen
Sent: Wednesday, May 20, 2020 1:49 PM
To: Fritzie, Martha
Subject: FW: Update on possible regulations of short-term rentals

I've had a couple of responses, which I'll share with you. The first is below.

Ellen Rogalin, Community Relations Specialist

503-742-4274

Office hours: 9 am – 6 pm, Monday-Friday

From: Dan Bonfield <cascadecabinoffice@gmail.com>
Sent: Wednesday, May 20, 2020 9:53 AM
To: Rogalin, Ellen <EllenRog@clackamas.us>
Subject: Re: Update on possible regulations of short-term rentals

Warning: External email. Be cautious opening attachments and links.

So you see you and your jobs and programs are tied to vacation rentals and those that offer their houses and cabins to people to come and enjoy Oregon and My Hood, take this time to consider the over reaching plans you have put forth so far. Regulation is a good thing when applied correctly but some of the suggested requirements will force some to stop offering their homes.
Thanks for the update.

On Wed, May 20, 2020, 9:36 AM Rogalin, Ellen <EllenRog@clackamas.us> wrote:

Good morning,

Yesterday the Board of County Commissioners agreed to delay for six months (until Nov. 17, 2020) any further action on possible regulations for short-term rentals in unincorporated Clackamas County. The action was taken because of the changed circumstances brought about by the COVID-19 pandemic, including:

- Almost total loss of revenue for the county's Tourism Department, which was going to help fund start-up costs for a possible short-term rental registration program
- Dramatic drop in demand for short-term rentals

The status of short-term rentals in the county will continue to be as it has been, with no registration program or specific regulations except for the requirement to pay Transient Lodging Tax to the county's Finance Department (see details [here: https://www.clackamas.us/finance/transient.html](https://www.clackamas.us/finance/transient.html)). On November 17, the Board of Commissioners will again discuss the issue of possibly regulating short-term rentals based on the situation at that time.

Regulations as currently drafted will remain on the website at www.clackamas.us/planning/str. We will notify you when this issue is brought before the Board again or if there are other changes. For more information, contact Senior Planner Martha Fritzie at mfritzie@clackamas.us.

Thank you for your interest. Take care.

Ellen Rogalin, Community Relations Specialist

Clackamas County Public & Government Affairs

Transportation & Development | Business & Community Services

503-742-4274 | 150 Beaver Creek Road, Oregon City, OR 97045

Office hours: 9 am – 6 pm, Monday-Friday

[Spam Email](#)
[Phishing Email](#)

Fritzie, Martha

From: Sasha Burchuk <sashamonya@gmail.com>
Sent: Monday, May 18, 2020 9:28 PM
To: Rogalin, Ellen; Fritzie, Martha
Cc: Alex Mahan
Subject: Concerns over Airbnb penalizing hosts for canceling reservations from COVID hot spots

Follow Up Flag: Flag for follow up
Flag Status: Completed

Warning: External email. Be cautious opening attachments and links.

Hi Ellen and Martha,

I was in a room with you when you were doing community outreach as the public part of the process of County rule making around informal lodging like Airbnb. I have a very scary and timely issue concerning Airbnb now and I am hoping you can help, or at least field me to someone who can?

I am an airbnb owner (and superhost), and I have a cabin up in Rhododendron. Over the last few days, as States begin to reopen, I have received an alarming number of reservation requests from COVID hotspots. Yesterday I received 7 requests from Florida, Atlanta, New York City, New Jersey, and Ohio from guests who wish to travel in the next few weeks to our small rural community in Oregon. Many of them were planning on flying out.

I have been extremely careful as a host during this time - ensuring our caretaker is following CDC protocols for cleaning and leaving gaps between stays to reduce risk. The only reason why we are even renting our place out still is because the income helps us pay our mortgage, and also the income from cleaning is the only income that our caretaker's family of four has right now. I do not want to bring people from COVID hotspots who have recently traveled through airports in to our rural, aging community, which is generally low-income, and quite far from hospitals.

I am concerned because Airbnb is penalizing hosts for canceling stays selectively, as I have been doing, and I am writing to let you know that as far as I can tell based on all the contact I had yesterday, many people are planning on driving and flying to Oregon this summer, pandemic or not.

Far be it from me to recommend policy to the County, but perhaps it would be in all of our best interest if you could reach out to Airbnb's legislative director, or a policy person there, and urge them to continue to let hosts use their own discretion when it comes to hosting without incurring penalties. I know that some counties in Oregon have gone so far as to temporarily suspend lodging. I feel that that would be too heavy handed as many people need the rental income to stay afloat, however we should all be allowed to choose who we host with absolutely no restrictions from this platform that cares about making money over anything else.

Thanks for your time,
Sasha Burchuk

--

BEGIN-ANTISPAM-VOTING-LINKS

Teach CanIt if this mail (ID 042Est5VW) is spam:

Spam Email: <https://mhub.clackamas.us/canit/b.php?c=s&i=042Est5VW&m=d9bbe3d88254&rlm=base&t=20200518>

Phishing Email:

<https://mhub.clackamas.us/canit/b.php?c=p&i=042Est5VW&m=d9bbe3d88254&rlm=base&t=20200518>

END-ANTISPAM-VOTING-LINKS

Fritzie, Martha

From: Fran mazzara <franmazzara@gmail.com>
Sent: Saturday, May 16, 2020 5:20 PM
To: Ken humberston; Jim Bernard; Fritzie, Martha
Subject: STR Welches

Follow Up Flag: Flag for follow up
Flag Status: Completed

Warning: External email. Be cautious opening attachments and links.

The parties have started...going to be a long night....NextDoorWelches is alive with reports of masses of cars and people filling homes in Timberline Rim, up Lolo Pass and on our street. Next door to us they brought a truckload of firewood. The noise has the dogs barking up a storm as the screams and yelling has started and the street is already filled with cars...and it is only 5:00. Whatever you can do to encourage a police response would help....
Thanks guys!
JOE

--
Fran & Joe Mazzara
25901 E. Highview Drive
Welches, Or 97067
franmazzara@gmail.com
503.622.1140

[Spam Email](#)
[Phishing Email](#)

Fritzie, Martha

From: Fritzie, Martha
Sent: Wednesday, May 13, 2020 6:23 PM
To: stockli@pacifier.com
Subject: Re: Contact Us Form

Hi Brad. Hopefully I can clarify a few things regarding short-term (vacation) rentals in the county.

First - it is also my understanding that neither the Governor nor our County Commissioners explicitly forbid short-term rentals from operating due to COVID-19. Rather, as you stated, the orders were to stay at home and eliminate unnecessary travel. There were some jurisdictions (particularly on the coast, I believe) that did prohibit them during this pandemic. I would image those jurisdictions have a registration/licensing program so they actually know where their operators are. This county does not have such a program and we were working to develop a registration and regulation program when the pandemic forced us to put the adoption process on hold.

Second - illegal is perhaps too strong of a term to use with regard to the current status of vacation rentals in this county. Our current zoning code does not explicitly allow this use in any dwelling. The way our code is constructed is that if something is not explicitly allowed, then it is prohibited. However, we are well aware that this use has been going on for decades, especially up in the Mt Hood area. And with the advent of the various on-line platforms in recent years, vacation rentals have become more common in other areas and there have increasingly been reports of neighborhood conflicts and requests to regulate this use. We were attempting to address some of these issues, while clarifying in our zoning code where this use should be allowed, when we were delayed by COVID-19.

And finally - we do understand that there are some vacation rentals that are registered and paying the transient room tax (just like hotels and motels), which is a valuable source of income that, in turn, enables our Tourism Department to continue to work at attract more tourism business to the county. The hope is, by tying the proposed registration program and regulations closely to the transient room tax collection, that the registration program will also result in better compliance with that program and, to some extent, level the playing field for all vacation rental operators and hotels/motels.

Technically, vacation rentals could be considered land use violations, enforceable thorough our Code Enforcement Division. Given their limited resources and resulting priority system that they operate under, if there are no other violations on the property, a vacation rental simply operating most often does rise to the level of an active violation and enforcement action. But, every operator who continues to operate does do so at their own risk until we can get clarification on this issue through the completion of our project. You can follow the progress of this project on our webpage (<https://www.clackamas.us/planning/str>).

Please let me know if you have any more questions.

Martha

Martha Fritzie, Senior Planner
Clackamas County DTD | Planning & Zoning Division

150 Beaver Creek Road | Oregon City, OR 97045
(503) 742-4529
Office hours 8:00am to 6:00pm | Monday - Thursday

Attachment B
First Reading of Ordinance No. ____
Short Term Rentals
Page 41 of 61

Due to COVID-19, our offices are currently closed to the public. At this time, the closure is expected to continue until at least **Monday, June 1st**. I am working remotely and will do my best to respond in a timely manner. I appreciate your understanding during this challenging time.

If you have general questions, please contact our main customer service desk at 503-742-4500 or via email at zoninginfo@clackamas.us. Thank you.

From: ZoningInfo
Sent: Wednesday, May 13, 2020 2:47 PM
To: stockli@pacifier.com
Cc: Fritzie, Martha; Cross, Nicole
Subject: RE: Contact Us Form

Hello,

I have cc-ed the planners in our office working on this project so they can provide you with the requested information. Thank you!

Melissa

Melissa Ahrens
Senior Planner
Clackamas County Planning and Zoning Division
150 Beaver Creek Road
Oregon City, OR 97045
MAhrens@co.clackamas.or.us
Direct Ph: 503-742-4519 | Fax: 503-742-4550

The Planning and Zoning Division public service/permits lobby is open Monday through Thursday from 8:00 a.m. to 4:00 p.m. and Friday from 8:00 a.m. to 3:00 p.m. The public service telephone line at 503-742-4500 and email account at zoninginfo@clackamas.us are staffed Monday through Friday from 8:00 a.m. to 5:00 p.m.

The Clackamas County Department of Transportation and Development is dedicated to providing excellent customer service. Please help us to serve you better by giving us your [feedback](#). We appreciate your comments and will use them to evaluate and improve the quality of our public service.

From: stockli@pacifier.com [<mailto:stockli@pacifier.com>]
Sent: Wednesday, May 13, 2020 12:43 PM
To: ZoningInfo <ZoningInfo@clackamas.us>
Subject: RE: Contact Us Form

I've known about the pending hearings, but I had never been informed that what I've been doing over the last 20 years is "illegal". If you look over the Transient Lodging Tax Ordinance 8.02 it specifically lists "vacation homes" and "similar occupied structures or portions of the above".

I've been paying 6% TRT for 20 years which adds up to tens of thousands of dollars.

What recourse do I have during this 'in between' times? Between now and whenever the hearing process is complete? There are hundreds, if not thousands of these types of rentals in this county alone. Are we expected to simply close up shop? Refund existing reservations? If my business alone has provided the county with that much

money over the years, I'm sure the county couldn't continue to function, as it does now, going forward with the money it collects from these "illegal short-term-rentals".

I thought I'd share how these collected money's benefit the county here below, as it is listed on the county website. 'If I take taxable revenue for my vacation rental and I am in fact breaking the law, what are the repercussions at this time? Fines? Jailtime? Foreclosure? What form are we to continue to exist during this in-between time? Clarity please. Thank you for your time.

Brad

This tax directly benefits the businesses providing lodging, tourism, and visitor services in Clackamas County. It supports advertising and marketing as well as tourism planning and development to contribute to positive experiences for regional visitors.

Visitor-related businesses receive business and event listings on [Clackamas County Tourism and Cultural Affairs website](#) and other benefits, such as attractive ad-buy rates in publications and leads from domestic and international travel trade shows.

This tax also supports the annual [Clackamas County Fair](#), a premier summer event celebrating and promoting the rural history and present-day agricultural industries in the county. The Fair is located in Canby, Oregon, at the Clackamas County Events Center. The Fair receives about \$400,000 each year from the tax.

From: ZoningInfo <ZoningInfo@clackamas.us>
Sent: Tuesday, May 12, 2020 7:39 PM
To: stockli@pacifier.com
Subject: RE: Contact Us Form

Brad,

Short-term rentals are not allowed in Clackamas County regardless of COVID-19. The delay of hearings was based on our current global and local situation on shutdowns. Until the hearing process is complete we will not know the outcome of the short-term rental discussion.

Further email inquiries will be addressed tomorrow by a different staff person.

Lorraine Gonzales, Senior Planner
 Clackamas County Planning and Zoning Division
 150 Beaver Creek Rd, Oregon City OR 97045
lorrainego@clackamas.us (503) 742-4541

From: stockli@pacifier.com <stockli@pacifier.com>
Sent: Tuesday, May 12, 2020 7:07 PM

To: ZoningInfo <ZoningInfo@clackamas.us>
Subject: RE: Contact Us Form

Hello Stacy,

Just to be clear; when you say “short-term rentals are illegal in CC”, are you referring to there being no legislation regarding vacation rentals to refer to prior to covid? Or are you saying as a result of the Executive Order short-term rentals are NOW illegal?

Do you mean they have been illegal all along or only just since the Order? I wonder because I’ve been doing short-term renting for 20 years. I’ve been paying the Transient Room Tax (6%) the whole time to the County. Why would such a structure be in place if the practice were illegal? The taxes I pay to the county go towards mine and other vacation rentals. It’s very confusing. I’d much appreciate some elaboration on this, thanks!

Brad

From: ZoningInfo <ZoningInfo@clackamas.us>
Sent: Tuesday, May 12, 2020 6:03 PM
To: stockli@pacifier.com
Subject: FW: Contact Us Form

Stacy,

The Short-Term rental draft regulations have not been adopted therefore short-term rentals are illegal in Clackamas County at this time. See the Short-term rental housing regulations website for information:

<https://www.clackamas.us/planning/str>

The Board public hearing for April were postponed



PLANNING AND ZONING

SHORT-TERM RENTAL HOUSING REGULATIONS

Short-term rental housing

Draft regulations for short-term/vacation rentals in unincorporated Clackamas

Board public hearings set for April

The Board of Commissioners met on **March 11**, to discuss many of the issues raised by the draft regulations. Public hearings and new first and second readings of the draft regulations are set for April.

[Read the proposed regulations and background information](#) by clicking on the link below.

Comments/questions? Contact Senior Planner Martha Fritsch at mfritsch@clackamas.us

Written comments on the draft regulations may still be submitted through the [comment form](#).

From: Davenport, Stacy <SDavenport@clackamas.us>
Sent: Tuesday, May 12, 2020 8:50 AM
To: ZoningInfo <ZoningInfo@clackamas.us>
Subject: FW: Contact Us Form

Please respond to the email below Thank you!

From: noreply@clackamas.us <noreply@clackamas.us>
Sent: Monday, May 11, 2020 1:10 PM
To: Contact Us - Other <ContactUs-Other@co.clackamas.or.us>; PGA - Admin <PGAAdmin@clackamas.us>; Web Development Team <webteam@co.clackamas.or.us>
Subject: Contact Us Form

Fritzie, Martha

From: Farid Birang <farid.birang@gmail.com>
Sent: Tuesday, April 28, 2020 3:12 PM
To: Fritzie, Martha
Cc: Farid Birang
Subject: Short Term Rental Regulations

Warning: External email. Be cautious opening attachments and links.

Dear County Commissioners:

I am a homeowner at Collins Lake Resort in Government Camp and I have read the county's proposed regulations regarding short-term rentals. The proposed regulations and associated fees do not take into consideration the fact that our Condominium Association and our on-site management company already have rules and regulations that address the concerns in the draft ordinance. Our Condominium Association's governing documents, including our Declaration and Bylaws, already outline the rules and regulations for this tourism-driven community. When purchasing our condo, we were aware of and supported the rules and regulations regarding short-term rentals, and we have continued to support refinement of those rules through participation in our Condominium Association. Collins Lake Resort was designed for short-term rentals and is integral to the success of tourism in and around Government Camp. This is an unnecessary and redundant set of regulations for our Condominium Association. We strongly encourage the County Commissioners to exempt our Condominium Association from the proposed registration process and fees.

Sincerely,

Fred Birang

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

[Spam Email](#)
[Phishing Email](#)

Fritzie, Martha

From: greg madden <maddenfab2020@gmail.com>
Sent: Monday, March 30, 2020 6:05 PM
To: Fritzie, Martha
Subject: Rejection of short term rental fee program

Warning: External email. Be cautious opening attachments and links.

Dear County Commissioners:

I am a homeowner at Collins Lake Resort in Government Camp and I have read the county's proposed regulations regarding short-term rentals. The proposed regulations and associated fees do not take into consideration the fact that our Condominium Association and our on-site management company already have rules and regulations that address the concerns in the draft ordinance. Our Condominium Association's governing documents, including our Declaration and Bylaws, already outline the rules and regulations for this tourism-driven community. When purchasing our condo, we were aware of and supported the rules and regulations regarding short-term rentals, and we have continued to support refinement of those rules through participation in our Condominium Association. Collins Lake Resort was designed for short-term rentals and is integral to the success of tourism in and around Government Camp. This is an unnecessary and redundant set of regulations for our Condominium Association. We strongly encourage the County Commissioners to exempt our Condominium Association from the proposed registration process and fees. In addition this is only a tax to fill the coffers of the local government and has no benefit to those of us who have worked hard to purchase property in your county and allow others to visit and add value and income to the area.

Sincerely,

Greg Madden.

Sent from [Mail](#) for Windows 10

[Spam Email](#)
[Phishing Email](#)

Fritzie, Martha

From: Collin Hall <collin@ahfpdx.com>
Sent: Friday, March 20, 2020 2:02 PM
To: Fritzie, Martha
Subject: Short Term Rental-Collin's Lake

Warning: External email. Be cautious opening attachments and links.

Dear County Commissioners:

I am a homeowner at Collins Lake Resort in Government Camp and I have read the county's proposed regulations regarding short-term rentals. The proposed regulations and associated fees do not take into consideration the fact that our Condominium Association and our on-site management company already have rules and regulations that address the concerns in the draft ordinance. Our Condominium Association's governing documents, including our Declaration and Bylaws, already outline the rules and regulations for this tourism-driven community. When purchasing our condo, we were aware of and supported the rules and regulations regarding short-term rentals, and we have continued to support refinement of those rules through participation in our Condominium Association. Collins Lake Resort was designed for short-term rentals and is integral to the success of tourism in and around Government Camp. This is an unnecessary and redundant set of regulations for our Condominium Association. We strongly encourage the County Commissioners to exempt our Condominium Association from the proposed registration process and fees.

Sincerely,

Collin Hall | President / Senior Loan Officer | NMLS# 285398
American Home Funding | 1834 SW 58th Avenue, Suite 104 | Portland, OR 97221
Office 503.222.6404 | Cell 503.804.5540 | Fax 503.296.5574

[Securely upload documents here](#)



 **EQUAL HOUSING LENDER**

A division of Chelgren & Associates, Inc. | NMLS 278408

The information contained in this message is privileged and confidential. It is intended solely for the use of the named recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the contents of this transmission is strictly prohibited. If you have received this message in error, please notify the sender immediately. This is not a commitment to lend. Interest rates and terms are subject to change without notice. Information deemed reliable but not guaranteed. Thank you.

Fritzie, Martha

From: John Ingersoll <john@highcascade.com>
Sent: Thursday, March 19, 2020 2:50 PM
To: Fritzie, Martha; Rogalin, Ellen
Cc: BBC@co.clackamas.or.us
Subject: Parking, STR and Government Camp

Warning: External email. Be cautious opening attachments and links.

Martha, Jennifer, and the BCCs,

I know things must be hectic.. I am still not on the notification list?!

It was just brought to my attention that parking requirement in the proposed STR regulations states that all parking must be on-site (8.10.060D). I think this is an oversight for STRs located in the RTC zone in Government Camp as all Government Camp RTC properties are allowed to count on-street parking fronting their property toward the minimum required (ZDO 1015.D.2.b). On-street parking is approved for long-term rentals, retail establishments, restaurants, and all other allowed uses including Resort Accommodations, so why wouldn't it be approved for STRs?

I have an existing STR lodge that generated \$4760.00 in Clackamas transient taxes in 2019 and a proposed duplex I am designing and hope to have constructed this summer. Both are in the RTC commercial district of Government Camp and are approved as Resort Accommodations. In the case of my existing lodge, of the 5 parking stalls required 3 of them are on-street and were allowed under ZDO 1015.D.2.b. I bought the duplex property prior to the proposed STR regulations and I am developing it with a STR in mind. All of the required parking stalls for this project are on-street.

I am very familiar with many RTC zoned STR properties in Government Camp. The proposed language would affect most of these properties since most, if not all, of them are counting on-street parking to meet required minimum. At least one of the properties has no off-street parking. Because of this, I recommend 8.10.060 D to state **"One off-street parking space, or any previously County allowed or approved parking stall, per two sleeping areas."**

At a minimum, the existing on-street parking which is allowed under the current ZDO regulations, should be considered a nonconforming condition if the proposed STR regulations are approved. As such, the on-street parking for the affected properties should be allowed to be counted toward the minimum parking required.

I would show the discrepancy to your county counsel.

I think it is clearly an oversight. Just like the language and oversight that was corrected around the electrical panels and not matching up to the UBC code.

I believe the BCC would cringe to know that, what I feel is an oversight, may halt construction of a new \$700,000 duplex project in a rural area of Clackamas County.

Can you also please forward this to Jennifer Hughes?

Kind regards,

John Ingersoll

*

Martha Fritzie, Senior Planner
Clackamas County DTD | Planning & Zoning Division
150 Beaver Creek Road | Oregon City, OR 97045
(503) 742-4529
Office hours 8:00am to 6:00pm | Monday - Thursday

The Clackamas County Department of Transportation and Development is dedicated to providing excellent customer service. Please help us to serve you better by giving us your feedback. We appreciate your comments and will use them to evaluate and improve the quality of our public service.

From: John Ingersoll [<mailto:john@highcascade.com>]
Sent: Tuesday, February 25, 2020 4:10 PM
To: Rogalin, Ellen <EllenRog@clackamas.us>
Cc: Fritzie, Martha <MFritzie@clackamas.us>; BCCMail <BCCMail@clackamas.us>
Subject: Re: STR and Government camp specific

Martha and Ellen,

I was notified of these proposed STR regulation late in the process. Martha recently included me. I want to be clear and clearer as County Commissioners have interfaced with The Government Camp CPO. Commissioner Humberston was concerned collecting funds (I have paid transient taxes diligently for 19 years , \$4760.00 in 2019 alone. I do no propose to be exempt from that ..

I know Govt Camp rental buildings in RTC and in HR. For two decades I was housing manager and in charge of annually renting 24 Chalets and lodges including the lodge i own in the RTC zone in Government camp .. They were summer ski and snowboard groups.

A few things:

- The proposed changes , specifically 8.10.060 to “4 additional” from 2 additional helps RTC" Resort accommodation” buildings.

- RTC Resort Accommodation buildings are commercial buildings . I see my 1999 approved Design Review application for resort Accommodations and it is clear it is for large groups. Summer and non summer. *[Fritzie, Martha]* Yes – all multi-family developments must go through design review and are considered commercial building. Our zoning code does not have a definition of “resort accommodations” and since multi-family dwellings are not listed as specifically allowed in the RTC zone, “resort accommodations” has been fairly liberally interpreted in the past to allow for all types of multifamily dwellings to be built (either for rent or ownership) and even allows for a higher density than most urban multi-family districts in the metro UGB. If we hadn’t made this interpretation, the only dwellings that would have been explicitly allowed in the RTC zone would be single-family dwellings (and then, only under certain circumstances). On another note – the MRR zone found in Govt. Camp and other areas on the mountain, is actually a residential zone (not a commercial zone) and allows for a wide range of dwelling types – from single-family to plexes to multi-family – and all of these dwelling types are found in various locations in this zoning district.
- My building is a 5 (really 6) unit building and i only rent out the entire lodge . and have done so for over 18 years . With the minim of 15 per application, I would have to submit multiple application for one building. I think i can do that? Can I ? and then advertise the entire building as ONE ??*[Fritzie, Martha]* One application would need to be submitted for each dwelling unit within the building. You may advertise and rent them separately or all at the same time – we would not regulate that.
- i still think the STR regulations were designed for STR in Residential areas.
- I have paid transient taxes diligently , \$4760.00 in 2019 alone. I do no propose to be exempt from that .. With a few minor adjustments, i think the regulations and related fees could work for the RTC / “Resort Accommodation” buildings past and future builds .. *[Fritzie, Martha]* We certainly appreciate that you are paying the transient taxes (currently we have a pretty low compliance rate for STRs). Our hope is that this program will provide a tool to ensure more STR operators are actually paying these taxes and therefore create a more level playing field for all STR operators and hotel/motel operators.
- how about a clause in the regulations stating something like ‘buildings that don’t fit into the regulations, but meet the intent , a case by case evaluation of such buildings / properties will be considered for approval. ?*[Fritzie, Martha]* We currently do not have an exceptions written

into the proposed regulations. If we were to do so, it would need to include a specific process and criteria that were fairly narrowly defined and contain objective criteria.

ANYWAY,

Is there any way I can talk to someone and get clear on IF and how these could would work in the RTC district for resort accommodations buildings? I am available . I am not sure if that would be you two? Can you respond.

Kind Regards,

<image001.png>

John Ingersoll Owner and Manager

t: 503.501.7500

e: john@highcascade.com

I am a confident, vibrant and respectful man. 11/19/94

On Feb 21, 2020, at 2:59 PM, John Ingersoll <john@highcascade.com> wrote:

Ellen,

I consulted with a professional and a few others about RTC, Resort Accommodations and current proposed STR regulations.

"Resort Accommodation" is a in the ZDO as an allowed and special use in the RTC commercial zone in Government Camp .. It is for larger buildings and encourages density .. there are several buildings built or zoned Resort Accommodations in the Govt camp RTC. My building is 9800 sq ft , approved as Resort Accommodations and was built to accommodate large groups .. It Does .. GOVT CAMP RESORT ACCOMODATION buildings do no fit into the current STR regulations..

The proposed STR regulations would restrict future Resort accommodation buildings.. Single family residences are no longer allowed IN RTC .. hence no conflict. **The proposed Clackamas STR is for residential zoned neighborhoods** .. If you pass the regulations as proposed and don't exempt the Govt camp RTC, it will be a big

oversight that will have to be corrected ; AGAIN, it is an oversight. A comparison is approving a hotel / motel and then having regulations overlayed restricting the number of rooms the hotel can rent out.

I also think the Commercial MRR zone in Government camp should be looked at and possibly also be exempt.

HR in Government camp is different too than other rural communities .. One is parking. the Govt Camp loop road, has extra parking, sells parking passes and all HR residences are within short walking distance and guests or owners can use those spots... hence unique to Government and Clackamas ..

Government camp is a unique community and many, many residences were purchased as 2nd homes .. and rentals and STR rentals .. Look at the amount of Transient taxes generated compared to other rural areas.

I INCLUDE MY EARLIER 2/15 COMMENTS BELOW. SOIME ARE REDUNDANT TO THE ABOVE. i was never notified, was surprised as i have paid ?transient taxes for over 17 years .. i was informed by a neighbor.

I have some concerns from the community of Government camp along with personal concerns as i have a big vacation rental in the commercial RTC zone. It was built as "Resort Accommodations" and **should be exempt IN 8.10.030 ; as are Hotels and B&Bs.**

I don't think on many of the proposed regulation points, Govt Camp rentals fit into the proposed regulation points.

- 1) In the Mt Hood comprehensive plan, unincorporated Govt camp is a high density community: Unlike Welches (medium), Rhododendron (low).
- 2) Govt. Camp is unlike all other Clackamas Rural communities.. It is a tourist and resort area.
- 3) **The RTC commercial area is not addressed as a special zone (or exempt) .. "Resort Accommodation" is not addressed specifically and there are at least 6 buildings in RTC that don't fit into the regulations; ie maximum capacity for example. Single family houses are not allowed in the RTC. "Resort Accommodations" in the commercial RTC zone can be a building with units like a hotel / motel without being a hotel / motel. Hotels / motels are proposed as exempt in the STR regulations. Resort Accommodations should also be exempt IN 8.10.030**
- 4) MRR is a special commercial zone (collins lake resort) and is not addressed.

5) I am not exactly sure of STR in the Govy Residential zones. We are a tourist community and special regulations should apply.

6) GOVT Camp Chalet and building Capacities was addressed long ago by the fire marshall and targeted many of the STR at the time .. the formula was 1 person for every 200 Sq. Feet of a building. it was a big deal and is enforced.

7) the Government camp sewer district charges extra SDC's and Edu's When the number of vacation renters increases .. hence it is a restraint on number of occupants.

kind Regards

<PastedGraphic-1.png>
Mt Hood Resort Lodging LLC

John Ingersoll Owner and Manager

t: 503.501.7500

e: john@highcascade.com

I am a confident, vibrant and respectful man. 11/19/94

Ellen and Martha

We won't know for sure until we see how the March 11 policy session goes, but there will be additional public hearings before any new regulations are adopted. We'll get out information about the results of the March 11 session and give you details about what's happening next.

Thanks for asking.

*Ellen Rogalin, Community Relations
Specialist*

503-742-4274

*Office hours: 9 am – 6 pm, Monday-
Friday*

From: Blane S

<blaneskowhede@hotmail.com>

Sent: Thursday, February 20, 2020 5:40
AM

To: Rogalin, Ellen

<EllenRog@clackamas.us>

Subject: Re: Clackamas Board to discuss short-term rental regulations on March 11

Hello Ellen,

What is the process from this point regarding the proposed short term rental regulations? Will there be there be chance for the public to comment on the the issues discussed at the March 11th policy session or are they making their final decision that day?

Thank you,
Blane Skowhede

From: Rogalin, Ellen

<EllenRog@clackamas.us>

Sent: Tuesday, February 18, 2020 5:31 PM

To: Rogalin, Ellen

<EllenRog@clackamas.us>

Cc: Fritzie, Martha

<MFritzie@clackamas.us>

Subject: Clackamas Board to discuss short-term rental regulations on March 11

Good afternoon,

Earlier today the Board of County Commissioners decided to hold another policy session on the draft short-term rental regulations to discuss many of the issues raised in written and oral testimony. The policy session is scheduled for **9:30-11:30 a.m., Wednesday, March 11**, in the Board Hearing Room on the 4th floor of the Public Services Building, 2051 Kaen Road, Oregon City. The public will be welcome to observe, but there will not be any opportunity for public comment.

If you are interested in the March 11 policy session but won't be able to attend, the audio from the session will be available online at <https://www.clackamas.us/meetings/bcc/presentation> by March 12. Updates will also be posted on the project website at www.clackamas.us/planning/str.

Thank you for your interest.

Ellen Rogalin, Community Relations Specialist

Clackamas County Public & Government
Affairs

*Transportation & Development | Business
& Community Services*

503-742-4274 | 150 Beaver Creek Road,
Oregon City, OR 97045

*Office hours: 9 am – 6 pm, Monday-
Friday*

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Fritzie, Martha

From: Kiran Limaye <bikemore@gmail.com>
Sent: Thursday, March 19, 2020 11:43 AM
To: Fritzie, Martha
Cc: sarah@traveloregon.com; Queener, David
Subject: Please modify Clackamas County Proposed Short-term rental housing regulations to mitigate impact on Mt. Hood Tourism & Collins Lake

Warning: External email. Be cautious opening attachments and links.

Dear Clackamas County Commissioners, Clackamas Development Agency and Oregon Tourism Commission:

I am a homeowner at Collins Lake Resort in Government Camp and I have read the county's proposed regulations regarding short-term rentals. The proposed regulations and associated fees do not take into consideration the fact that our Condominium Association and our on-site management company already have rules and regulations that address the concerns in the draft ordinance, *including collection of lodging taxes*. Collins Lake has a front desk, on site security and in house cleaning services that support several local jobs. Therefore, *I strongly encourage the County Commissioners to exempt our Condominium Association from the proposed registration process and fees.*

Our Condominium Association's governing documents, including our Declaration and Bylaws, already outline the rules and regulations for this tourism-driven community. When purchasing my condo, we were aware of and supported the rules and regulations regarding short-term rentals, and we have continued to support refinement of those rules through participation in our Condominium Association.

Collins Lake Resort was designed for short-term rentals and is integral to the success of tourism in and around Government Camp. There is a shortage of rental housing in this community which limits economic growth--putting additional regulations and cost on developments that are designed to accommodate tourism will only reduce the legal short term housing supply and ultimately impact out workforce here. Please focus your efforts on the truly unmanaged rental properties in the County.

I appreciate your efforts to ensure safety, tax compliance and respect for local communities. Because I share the same priorities, I chose to invest specifically Collins Lake, a development with professional management that is designed with responsible tourism in mind. Additional regulation and cost for our condominium would be particularly challenging given the tough economic times. We are already increased fire insurance premiums and a worldwide tourism downturn. We need your help to ensure a swift recovery for our mountain community and Oregon Tourism, and leverage the many investments made by the Clackamas Development Agency in Government Camp and Collins Lake.

Thank you for considering an exemption for communities such as ours.

Kiran S. Limaye

30603 E Ski Bowl Way
Government Camp, OR 97028

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

[Spam Email](#)

[Phishing Email](#)

Fritzie, Martha

From: Roger Mills <scoutmills1@gmail.com>
Sent: Wednesday, March 18, 2020 2:42 PM
To: Fritzie, Martha
Subject: short term rental regulations

Warning: External email. Be cautious opening attachments and links.

Dear County Commissioners:

I am a homeowner at Collins Lake Resort in Government Camp and I have been made aware of the county's proposed regulations regarding short-term rentals. The proposed regulations and associated fees do not take into consideration the fact that our Condominium Association and our on-site management company already have rules and regulations that address the concerns in the draft ordinance. Our Condominium Association's governing documents, including our Declaration and Bylaws, already outline the rules and regulations for this tourism-driven community. When purchasing our condo, we were aware of and supported the rules and regulations regarding short-term rentals, and we have continued to support refinement of those rules through participation in our Condominium Association. Collins Lake Resort was designed for short-term rentals and is integral to the success of tourism in and around Government Camp. This is an unnecessary and redundant set of regulations for our Condominium Association. We strongly encourage the County Commissioners to exempt our Condominium Association from the proposed registration process and fees.

Sincerely,

Roger Mills

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[Phishing Email](#)

Fritzie, Martha

From: Priscilla <dpgreatlife@yahoo.com>
Sent: Saturday, March 14, 2020 2:10 PM
To: Fritzie, Martha
Subject: Short-term rentals

Warning: External email. Be cautious opening attachments and links.

Dear County Commissioners:

I am a homeowner at Collins Lake Resort in Government Camp and I have read the county's proposed regulations regarding short-term rentals. The proposed regulations and associated fees do not take into consideration the fact that our Condominium Association and our on-site management company already have rules and regulations that address the concerns in the draft ordinance. Our Condominium Association's governing documents, including our Declaration and Bylaws, already outline the rules and regulations for this tourism-driven community. When purchasing our condo, we were aware of and supported the rules and regulations regarding short-term rentals, and we have continued to support refinement of those rules through participation in our Condominium Association. Collins Lake Resort was designed for short-term rentals and is integral to the success of tourism in and around Government Camp. This is an unnecessary and redundant set of regulations for our Condominium Association. We strongly encourage the County Commissioners to exempt our Condominium Association from the proposed registration process and fees.

Sincerely,

Denis and Priscilla Centofante

[Spam Email](#)
[Phishing Email](#)

Fritzie, Martha

From: Peter H <peterhpd@gmail.com>
Sent: Thursday, March 12, 2020 2:50 PM
To: Fritzie, Martha
Subject: STR regulations

Dear County Commissioners:

I have been a homeowner at Collins Lake Resort in Government Camp for over two years now. I am concerned about the county's proposed regulations regarding short-term rentals. The proposed regulations and associated fees do not take into consideration the fact that our Condominium Association and our on-site management company already have rules and regulations that address the concerns in the draft ordinance. Our Condominium Association's governing documents, including our Declaration and Bylaws, already outline the rules and regulations for this tourism-driven community. When purchasing my condo, I was aware of and supported the rules and regulations regarding short-term rentals, and I have continued to support refinement of those rules through participation in our Condominium Association. Collins Lake Resort was designed for short-term rentals and is integral to the success of tourism in and around Government Camp. This is an unnecessary and redundant set of regulations for our Condominium Association. We strongly encourage the County Commissioners to exempt our Condominium Association from the proposed registration process and fees.

Sincerely,
Peter Heeman

[Spam Email](#)
[Phishing Email](#)

Fritzie, Martha

From: Donn Focht <donnfocht1@aol.com>
Sent: Thursday, March 12, 2020 11:39 AM
To: Fritzie, Martha
Subject: Proposed Regulations for Short-Term Rentals

Dear County Commissioners:

I am a homeowner at Collins Lake Resort in Government Camp and I have read the county's proposed regulations regarding short-term rentals. The proposed regulations and associated fees do not take into consideration the fact that our Condominium Association and our on-site management company already have rules and regulations that address the concerns in the draft ordinance. Our Condominium Association's governing documents, including our Declaration and Bylaws, already outline the rules and regulations for this tourism-driven community. When purchasing our condo, we were aware of and supported the rules and regulations regarding short-term rentals, and we have continued to support refinement of those rules through participation in our Condominium Association. Collins Lake Resort was designed for short-term rentals and is integral to the success of tourism in and around Government Camp. This is an unnecessary and redundant set of regulations for our Condominium Association. We strongly encourage the County Commissioners to exempt our Condominium Association from the proposed registration process and fees.

Sincerely,

Donn and Annalisa Focht

[Spam Email](#)
[Phishing Email](#)

Fritzie, Martha

From: David Solondz <dsolondz@gmail.com>
Sent: Wednesday, March 11, 2020 10:15 PM
To: Fritzie, Martha
Subject: proposed short term rental regulations review

Dear County Commissioners:

I am a homeowner at Collins Lake Resort in Government Camp and I have read the county's proposed regulations regarding short-term rentals. The proposed regulations and associated fees do not take into consideration the fact that our Condominium Association and our on-site management company already have rules and regulations that address the concerns in the draft ordinance. Our Condominium Association's governing documents, including our Declaration and Bylaws, already outline the rules and regulations for this tourism-driven community. When purchasing our condo, we were aware of and supported the rules and regulations regarding short-term rentals, and we have continued to support refinement of those rules through participation in our Condominium Association. Collins Lake Resort was designed for short-term rentals and is integral to the success of tourism in and around Government Camp. This is an unnecessary and redundant set of regulations for our Condominium Association. We strongly encourage the County Commissioners to exempt our Condominium Association from the proposed registration process and fees.

Sincerely,

David Solondz and Family
30645 SE Camryn Way
Government Camp, OR 97028

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Chapter 8.10

8.10 SHORT-TERM RENTALS

8.10.010 Purpose

The purpose of this chapter is to regulate short-term rentals in order to enhance public safety and livability within the unincorporated areas of Clackamas County. Specifically, this chapter addresses public safety concerns typically associated with short-term rentals, and clarifies the process for both property owners and staff related to permitting short-term rentals and enforcing violations of these standards.

8.10.020 Definitions

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

- A. ADMINISTRATOR means the County Administrator of Clackamas County or his/her designee.
- B. DWELLING UNIT is a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. For the purposes of this chapter only, a guest house is considered to be part of the dwelling unit to which it is accessory, even though it is a separate structure. Guest house shall have the meaning given to that term in Section 202 of the Clackamas County Zoning and Development Ordinance.
- C. OCCUPANTS means persons who are authorized to stay overnight within a short-term rental.
- D. OWNER is the owner or owners of a dwelling unit used as a short-term rental.
- E. OVERNIGHT means anytime between the hours of 10 p.m. and 7 a.m. on the following day.
- F. PREMISES means the short term rental and the lot on which it is located.
- G. PRIMARY RESIDENCE means a dwelling unit where an owner lives most of the time. At a given time, an owner does not have more than one primary residence. For purposes of determining whether a dwelling unit is a primary residence, the County may consider factors that include, but are not limited to: whether the dwelling unit is the legal residence of the owner for purposes of voting, motor vehicle/driver licensing, income tax calculation, and the time the owner has spent at the dwelling unit.
- H. REGISTRANT means the owner, or agent of the owner, designated on the registration to act for the owner, who is responsible for ensuring the short-term rental adheres to all applicable requirements to maintain a short-term rental registration.
- I. REGISTRATION means a short-term rental registration.
- J. SHORT-TERM RENTAL means a dwelling unit, or portion of a dwelling unit, that is rented to any person or entity for lodging or residential purposes, for a period of up to 30 consecutive nights.
- K. SLEEPING AREA means a room or other space within a dwelling unit designed and intended primarily for sleeping.

8.10.030 Applicability

This chapter shall apply within the unincorporated areas of Clackamas County including within urban growth boundaries, but shall not apply within the boundaries of any incorporated city. This chapter does not apply to hotels, motels, bed and breakfast facilities, hostels, campgrounds, recreational vehicle (RV) camping facilities, or organizational camps.

8.10.040 Short-Term Rental Registration Requirements and Fee

- A. All short-term rentals shall be registered, except that any short-term rental that qualifies for an exemption to the Transient Room Tax under Section 8.02.060(C), as “incidental” use of the property, shall be exempt from the registration requirements set forth herein.
- B. Application forms for a registration for a short-term rental will be available at County offices. Applications for initial and renewal registrations for a short-term rental must be submitted to the County and must be signed under penalty of perjury. The application documents must include at least the following:
 - 1. The location of the premises.
 - 2. The true names, telephone numbers, and addresses and any aliases of the persons that have, or have had within the preceding year, a financial interest in the premises.
 - 3. A Land Use Compatibility Statement, signed by a Planning & Zoning Division representative, affirming that the short-term rental complies with Section 8.10.060(A).
 - 4. Signed affidavit of compliance with all building and fire standards in Section 8.10.060(G), and all applicable requirements in Section 8.10.060(D-F).
 - 5. Evidence that all current taxes and fees owed to Clackamas County have been paid for the premises.
 - 6. Evidence that a Transient Room Tax registration form has been submitted to the County.
 - 7. The name, telephone number, and address of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the short-term rental.
 - 8. Proof of liability insurance coverage on the short-term rental.
 - 9. A statement that the registrant of the short-term rental has met and will continue to comply with the standards and requirements of this chapter.
 - 10. A site plan that identifies, at a minimum, all structures on the property, driveway(s), off-street parking spaces, and garbage receptacles.
 - 11. A dwelling unit floor plan that identifies, at a minimum, all sleeping areas and other rooms in the dwelling unit.
 - 12. If the premises includes a guest house to be used as a short-term rental, verification that the guest house is equipped with indoor plumbing equipped with a water closet, lavatory, shower, bathtub or combination bath/shower. All plumbing fixtures must be connected to an approved water supply, and an approved sanitary sewer or private sewage system.
- C. A separate registration application must be submitted for each proposed short-term rental; however only one short-term rental registration shall be approved per dwelling unit.
- D. At the time of submission of a short-term rental registration application, the registrant must pay a short-term rental registration fee. The fee amount shall be set by resolution of the Board of County Commissioners.

- E. A registration is transferable to a new registrant, so long as the new registrant submits notification to the administrator, signed by the original registrant, of the transfer and agrees in writing to comply with the requirements of this chapter. A change of registrant notification form will be available at County offices.
- F. No short-term rental may be publicly advertised for rent unless it has been registered with the County

8.10.050 Registration Termination – Renewal – Fee

- A. A short-term rental registration terminates automatically two years after the date of issuance, unless a new registration application is approved by the county.
- B. Registrants wishing to continue uninterrupted operation of a short-term rental shall submit a new application to the County a minimum of 30 days prior to the expiration of the registration.
- C. At the time of submission of a new short-term rental registration application, the registrant must pay the short-term rental registration application fee. The fee amount shall be set by resolution of the Board of County Commissioners.
- D. A short-term rental registration terminates automatically if state statutes, regulations or guidelines are modified or changed to prohibit operation of the short-term rental under this chapter.

8.10.060 Standards and Conditions

Any short-term rental must comply with the following standards at all times, in addition to any other state and local requirements:

- A. Dwelling Unit. The short-term rental must be operated within a legally-established, permanent dwelling unit.
 - 1. The dwelling unit associated with a short-term rental shall not have been established through a land use approval or other approval process that specifically limited the use of the dwelling unit, the occupancy of the dwelling unit, or the duration of the existence of the dwelling unit. Examples of non-qualifying dwellings include those approved as an accessory farmworker dwelling, a caretaker dwelling, or a temporary dwelling for care.
 - 2. Guest houses may only be used as a short-term rental if the guest house has been legally-established and where a registrant can demonstrate that the structure is equipped with indoor plumbing, ~~equipped with~~ a water closet, lavatory, shower, bathtub or combination bath/shower.
 - 3. Temporary sleeping accommodations such as tents and recreational vehicles are not considered to be dwelling units under the county's zoning and development ordinance and may not be used as a short-term rental.
- B. Maximum Overnight Occupancy. The number of overnight occupants in the short-term rental shall not exceed the number of occupants authorized in the registration. The maximum overnight occupancy shall be clearly posted in the short-term rental, disclosed in any advertising of the availability of the short-term rental, and included in any rental agreement with tenants. The maximum overnight occupancy authorized in the registration for the short-term rental shall be calculated as follows:
 - 1. Two occupants per sleeping area, plus four additional occupants.

Attachment C

2. Roll-out beds, fold-out couches, or other similar temporary beds shall not be considered a “sleeping areas” for the purposes of calculating maximum allowed occupancy, but could accommodate the four additional occupants.
 3. In no case shall more than 15 occupants be authorized by a short-term rental registration. If only a portion of a dwelling unit is used as a short-term rental, all occupants, including those occupying the portion of the dwelling unit not used as a short-term rental, shall be counted toward the 15-occupant maximum.
- C. Noise. Notice shall be clearly posted in the short-term rental that identifies and informs occupants of their obligation to abide by the County’s current noise control ordinance standards (Clackamas County Code Chapter 6.05).
- D. Parking. One off-street motor vehicle parking space per two sleeping areas is required. Garage space may be used to meet required parking standards if evidence is provided that there is sufficient cleared garage space to fit a vehicle(s). All required parking spaces must be available for occupants to use.
1. If the short-term rental contains only one sleeping area, one off-street parking space is required.
 2. If the short-term rental cannot provide the required number of parking spaces based on sleeping areas, the registrant may request a reduced maximum overnight occupancy based on available parking. In no case shall the registrant advertise for, or rent to, more persons than are authorized under the reduced maximum occupancy total.
- 2-3. Short-term rentals in dwellings approved under the “resort accommodations” category in the Rural Tourist Commercial district are not required to provide more off-street parking than was required and approved under Zoning and Development Ordinance provisions.
- 3-4. In no event shall vehicles block access for emergency vehicles, block access to the premise, or block a parked motor vehicle, or otherwise park in a manner that violates the County’s current parking and towing ordinance standards (Clackamas County Code Chapter 7.01). Violation of this section may subject the offending vehicle to immediate tow pursuant to ORS 98.853.
- E. Garbage. All garbage from a short-term rental shall be legally removed from the premises by the owner, occupant or franchised service provider at least once per week during any week, or portion thereof, in which the short-term rental is occupied. All outdoor garbage receptacles shall be covered. Recycling container(s) shall be available for use by renters.
- F. Registration Identification. The registration identification number assigned to the short-term rental by the administrator shall be included on any advertisement or rental platform where the short-term rental is offered to the public for occupancy.
- G. Building and Fire Safety. A short-term rental shall comply with all ordinances that apply to a dwelling, and all structural components shall be kept in sound condition and good repair. In addition:
1. Working smoke detectors and carbon monoxide detectors shall be installed and maintained in locations as required by the Oregon Residential Specialty Code.
 2. Two (2) working fire extinguishers shall be provided in the unit, with one of the extinguishers placed within the kitchen, placed in the kitchen and next to each wood burning appliance in an easily accessible location. A minimum of two (2) extinguishers are required in each Dwelling Unit.

Attachment C

- 3. Code-compliant pool and hot tub barriers shall be present, if applicable.
- 4. Every sleeping area shall have not less than one operable emergency escape and rescue opening, including basement sleeping areas. ~~Emergency escape and rescue openings shall have a net clear opening of not less than 5.0 square feet. The net clear height shall not be less than 24 inches, and the net clear width shall not be less than 20 inches.~~ Windows must meet the egress size required when the Dwelling Unit was built and permitted. Use the chart below to determine minimum size egress window based upon the year the house was built.

<u>Year of Construction</u>	<u>Sill Height</u>	<u>Net Opening</u>	<u>Min. Height</u>	<u>Min. Width</u>
<u>Prior to 1964</u>	<u>No requirement</u>	<u>5.0 Sq. feet</u>	<u>No requirement</u>	<u>No requirement</u>
<u>1964 to 1970</u>	<u>48"</u>	<u>5.0 Sq. feet</u>	<u>24"</u>	<u>24"</u>
<u>1970-1976</u>	<u>48"</u>	<u>5.0 Sq. feet</u>	<u>22"</u>	<u>22"</u>
<u>1976-Present</u>	<u>44"</u>	<u>5.7 Sq. feet</u>	<u>24"</u>	<u>20"</u>

- 4.
- 5. All exterior building exits shall be clear, operable and available to renters. For Premises located at elevations above 3,500', doors that exit under active roof snow slide zones do not need to be available or operable when snow is present, unless the exit is part of the required primary egress for the Dwelling Unit or building.
- 6. All electrical wiring shall be covered, and wall outlets, switches and junction boxes shall have code-approved covers in place.
- 7. Electrical panels shall have a clear working space of at least 30 inches wide in front of the panel, and a clear space 78 inches high in front of the panel. All circuit breakers and/or fuses shall be clearly labeled in the event the power needs to be shut off to a certain area or appliance.
- 8. All restrictions and prohibitions for burning as determined by the local Fire District shall be observed. All wood-burning fire pits and fireplaces shall be covered or made otherwise unavailable during burn prohibition periods. Contact information for the local Fire District shall be clearly posted in the short-term rental.
- 9. The dwelling shall have no open building or zoning code violations.
- H. For any short-term rental located within the Portland Metropolitan Urban Growth Boundary, the dwelling unit to be used as a short-term rental must be located on the same tract as the owner's primary residence. However, the owner is not required to be present on the tract when the short-term rental is occupied. Tract ~~shall have the meaning given to that term in shall be defined as set forth in~~ Section 202 of the County's Zoning and Development Ordinance.

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8.10.70 Registration Review

- A. The administrator shall, within thirty (30) days after receipt of a complete application for a short-term rental registration and applicable fee, either issue the owner a registration or provide notice of denial.
- B. Upon approval, the administrator shall furnish notice of the approval to all property owners of record within 300 feet of the premises, and contiguous properties under the same ownership. This approval notice shall provide the name, telephone number, and

address of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the short-term rental.

- C. The administrator may deny a registration application for failure to submit the materials or fee set forth in Section 8.10.040, for failure to meet the standards and conditions set forth in Section 8.10.060, for submitting falsified information to the County, or for noncompliance with any other applicable County ordinances.

8.10.080 Examination of Books, Records and Premises

To determine compliance with the requirements of this chapter, the Clackamas County Zoning and Development Ordinance, and any local tax measures, the administrator may examine or cause to be examined by an agent or representative designated by the administrator, at any reasonable time, the premises, and any and all financial, operational and facility information, including books, papers, and state and federal income tax returns. Every owner is directed and required to furnish to the administrator the means, facilities and opportunity for making such examinations and investigations.

8.10.090 Emergency Revocation

- A. In the sole determination of the Clackamas County Building Official, when a violation of the building code or applicable county ordinance exists at a short-term rental that presents an immediate serious fire or life safety risk, the Clackamas County Building Official may immediately revoke the short-term rental registration as a fire or life safety risk. The Clackamas County Building Official shall provide written documentation of the violation, and notification of the owner's right to appeal, as provided in 8.10.100.
- B. Upon an emergency revocation, the short-term rental shall not be rented or used as a short-term rental unless the revocation is withdrawn or a new short-term rental registration has been obtained.
- C. At any time following the emergency revocation of a short-term rental registration pursuant to this subsection, the Clackamas County Building Official may reinstate the registration upon a re-inspection by the Clackamas County Building Official verifying that the subject building code or county ordinance violation has been corrected.

8.10.100 Administration and Enforcement

The County encourages owners, registrants, occupants, and affected residents and owners of nearby properties, to cooperate directly to resolve conflicts arising from the occupancy of any short-term rental. Along those lines, the first attempt to remedy a violation of any of the standards in this chapter should be to contact the representative associated with the registration, as identified in the approval notice and the required short-term rental posting. In the event that the listed representative does not respond within 24 hours or does not adequately remedy the issue, the Clackamas County Department of Finance should be notified.

- A. For acts of noncompliance, the Code Enforcement Program of the Department of Transportation and Development shall administer, supervise, and perform all acts necessary to enforce this chapter or any other chapters of the Clackamas County Code applicable to short-term rentals, except as otherwise provided for in state law or in the Clackamas County Code, ~~including such as, but not limited to,~~ those regulations for

which the Clackamas County Sheriff's Office has been vested with enforcement authority.

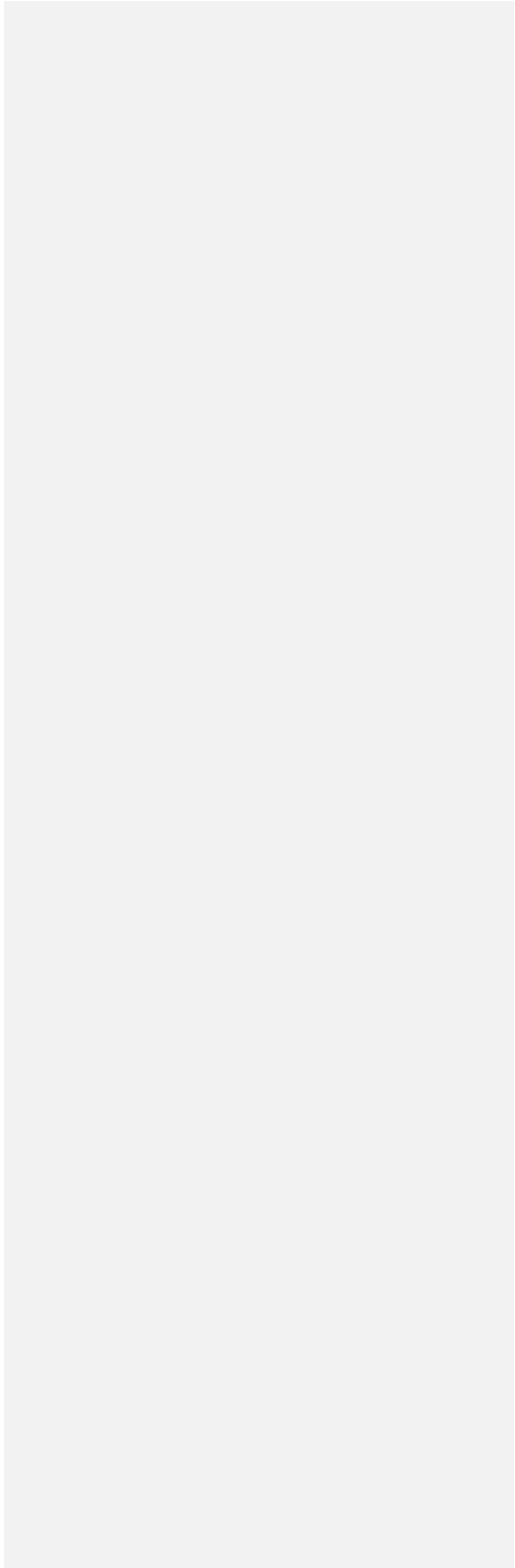
- B. Except as otherwise provided in this chapter, Chapter 2.07 of the Clackamas County Code shall govern the process for enforcement of this chapter, including but not limited to the notice and procedures associated with any compliance hearing.
- C. An owner that operates a short-term rental without an approved registration, or fails to pay the fees prescribed herein, shall be subject to immediate citation. Additionally, an owner that fails to pay the fees prescribed herein may have their short-term rental registration immediately revoked.
- D. A person who receives a citation for violation of this chapter shall respond within fourteen (14) days of the issuance of the citation by payment of any penalties established under this chapter, or by requesting a hearing as provided in this section.
- E. In addition to citation, the Code Enforcement Program of the Department of Transportation and Development may require an inspection of the premises.
- F. In addition to citation, the Hearings Officer may:
 - 1. Suspend the short-term rental registration until the short-term rental is in compliance with the standards and conditions set forth in Section 8.10.060; or
 - 2. Revoke the short-term rental registration if there have been three separate violations of this chapter related to the same short-term rental within the applicable two-year registration period or three separate documented violations by any occupant of the same short-term rental within the applicable two-year registration period related to the County's noise control ordinance standards (Clackamas County Code Chapter 6.05) or the County's parking and towing ordinance standards (Clackamas County Code Chapter 7.01).
- G. Alleged acts of noncompliance must be based on either:
 - 1. The personal observation of the Sheriff or designee, code enforcement officer, or Clackamas County Department of Finance staff; or;
 - 2. A determination by the Sheriff or designee, code enforcement officer, or Clackamas County Department of Finance staff that there are reasonable grounds to conclude that the alleged acts of noncompliance did, in fact, occur, after either an investigation or following a sworn statement of a person who personally witnessed the alleged incident.

8.10.110 Penalties

Violation of this chapter shall be punishable by suspension or revocation of a short-term rental registration, or by a penalty or fine in an amount set by resolution of the Board of County Commissioners. Except in the case of an emergency revocation, any owner may not obtain or renew a short-term rental registration on the premises sooner than one year after the date of revocation.

|

Attachment C



November 5, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between the Housing Authority of Clackamas County and
the Community Development Division for conducting Environmental Reviews

Purpose/Outcomes	The Agreement will allow for the Housing Authority to reimburse the Community Development Division staff time for conducting required environmental reviews to secure federal funds for housing projects.
Dollar Amount and Fiscal Impact	\$15,000 Housing Authority funds
Funding Source	No County General Funds are involved.
Duration	Effective October 14, 2020 to June 30, 2023
Previous Board Action	Board Order 2020-24 on March 26, 2020
Strategic Plan Alignment	1. Build a strong infrastructure 2. Ensure safe, healthy and secure communities
Counsel Review	Date of County Counsel review: August 6, 2020 County Counsel: A.N.
Procurement Review	Was the item process through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> If no, provide brief explanation: Internal county services only
Contact Person	Mark Sirois, Housing and Community Development - (503) 655-5664
Contract No.	H3S# 9908

BACKGROUND:

The Housing and Community Development Division of the Health, Housing and Human Services Department requests the approval of this Intergovernmental Agreement with the Housing Authority of Clackamas County for reimbursing Community Development Division staff time for conducting environmental reviews, research, documentation, correspondence with state and tribal agencies and submitting completed environmental review documentation to the Department Housing and Urban Development (HUD) for approvals to release grant funds for projects. The Agreement was reviewed and approved by County Counsel on August 6, 2020.

RECOMMENDATION:

We recommend the approval of this Agreement and that Richard Swift H3S Director be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,



H3S Deputy / Fax

Richard Swift, Director

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND THE HOUSING AUTHORITY OF CLACKAMAS COUNTY**

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

RECITALS

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

The County, by and through its Community Development Division, and HACC intend to engage in a project (the "Project") to conduct environmental reviews and certify those reviews in accordance with the U. S. Department of Housing and Urban Development (HUD) environmental review requirements to comply with the National Environmental Policy Act (NEPA) for all public housing capital improvements and housing developments.

The County is acting as the Responsible Entity under 24 CFR Part 58 and is statutorily authorized to assume responsibility for environmental reviews, decision-making and action that would otherwise apply to HUD. This responsibility includes tribal consultation on historic properties and consultation with the State Historic Preservation Office (SHPO) of Oregon for compliance with Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations 36 CFR Part 800.

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

TERMS

1. **Term.** This Agreement shall be effective upon execution, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or June 30, 2023, whichever is sooner.
2. **Scope of Work.** The parties agree to perform the services and other tasks identified in the Scope of Work attached hereto as Exhibit A.
3. **Consideration.** The HACC agrees to reimburse the County for hourly staff expenses toward the Project in an amount not to exceed Fifteen Thousand Dollars (\$15,000.00) over a three year period.
4. **Payment.** The County will submit quarterly invoices to the HACC for work performed to complete the Project. Invoices shall describe all work performed, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed.
5. **Representations and Warranties.**

2020-2023 Environmental Reviews for HACC Projects

- A. *HACC Representations and Warranties*: HACC represents and warrants to County that HACC has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of HACC enforceable in accordance with its terms.
- B. *County Representations and Warranties*: County represents and warrants to HACC has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
- C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

6. Termination.

- A. Either the County or the HACC may terminate this Agreement for convenience upon thirty (30) days written notice to the other party. The County and HACC will work together to avoid terminating the Agreement to construct the Project, by bidding the Project, receiving and reviewing the bid amounts. If the County receives bids that are above the allocated budgeted funds, the County and HACC will jointly decide to not move forward with the Construction Project. The County will send out notice to Contractors that bids are all above the budgeted funds and the Project will be canceled.
- B. Either the County or the HACC 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 HACC shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. Either Party may terminate this Agreement in the event that Party fails to receive expenditure authority sufficient to allow it, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Agreement is prohibited or either Party is prohibited from paying for such work from the planned funding source.
- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

7. Indemnification.

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

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

8. **Insurance.** The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.
9. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

A. Mark Sirois or their designee will act as liaison for the County.

Contact Information:

Clackamas County Community Development Division
2051 Kaen Road, Suite 245
Oregon City, OR 97045

Stephen McMurtrey or their designee will act as liaison for the HACC.

Contact Information:

Housing Authority of Clackamas County
13930 S. Gain Street
Oregon City, OR 97045

10. General Provisions.

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and HACC 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. HACC, by execution of this Agreement, hereby consents to the in persona jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. 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.** HACC shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. HACC shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, HACC shall permit the County's authorized representatives' access to the Records at reasonable times and places for purposes of examining and/ or copying.
- 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

2020-2023 Environmental Reviews for HACC Projects

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 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.
- 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.** HACC 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. **Subcontract and Assignment.** HACC shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole and absolute discretion. County's consent to any subcontract shall not relieve HACC of any of its duties or obligations under this Agreement.
- L. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.

2020-2023 Environmental Reviews for HACC Projects

- M. **Survival.** All provisions in sections 7 and 10(A), (C), (D), (E), (F), (G), (H), (J), (M), and (Q) shall survive the termination of this Agreement, and all other rights and obligations which by their context are intended to survive.
- N. **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.
- O. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- P. **Force Majeure.** Neither HACC nor County shall be held responsible for delay or default caused by events outside of the HACC or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 their obligations under this Agreement.
- Q. **Confidentiality.** HACC acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by HACC or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). HACC agrees to hold Confidential Information in strict confidence, using at least the same degree of care that HACC uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

[Signatures on Following Page]

2020-2023 Environmental Reviews for HACC Projects

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

Clackamas County


Chair, Jim Bernard
Commissioner Sonya Fischer
Commissioner Ken Humberston
Commissioner Paul Savas
Commissioner Martha Schrader

Richard Swift, Director
Health, Housing & Human Services
Department

Date

Housing Authority of Clackamas County

Chair, Jim Bernard
Commissioner, Sonya Fischer
Commissioner, Ken Humberston
Commissioner, Paul Savas
Commissioner, Martha Schrader
Commissioner, Paul Reynolds



Jill Smith, Director
Housing Authority of Clackamas County

10/14/2020

Date

County Counsel

Approved to Form

Date

Exhibit A

SCOPE OF WORK

HACC Responsibilities:

- A. Under this Agreement, the responsibilities of the HACC shall be as follows:
 - 1. HACC shall provide County with individual environmental review project descriptions, funding sources and proposed timeline to begin the environmental review process.
 - 2. HACC will secure any specialized services including but not limited to: noise assessments, archeological and architectural services as required by the Oregon State Historic Preservation Office (SHPO).
 - 3. HACC will be responsible for providing County with any site inspection reports.
 - 4. HACC will be responsible for reviewing the documentation provided by County to assure it meets HUD requirements for Public Housing Authority funded Projects.
 - 5. HACC agrees to not undertaking any HUD or non-HUD funded Project activities until the required environmental reviews are completed.

County Responsibilities:

- A. Under this Agreement, the responsibilities of the County will be as follows:
 - 1. County shall request any needed project documentation from HACC.
 - 2. County will schedule and conduct environmental reviews of individual projects in the HUD Environmental Review Online System (HEROS) and complete the required documentation for HACC.
 - 3. County shall be responsible for tracking all hourly staff costs (Labor, Fringe and Overhead) and billing HACC for all environmental review services provided at least quarterly.

Joint responsibilities:

County and HACC will jointly work on each project description to clarify roles and responsibilities of both HACC and County for each specific environmental review.

November 5, 2020

Board of Commissioners
 Clackamas County

Members of the Board:

Approval of a Subrecipient Agreement with Lifeworks NW for
Intensive Case Management Services

Purpose/Outcomes	To provide Intensive Case Management (ICM) services to eligible Clackamas County residents.
Dollar Amount and Fiscal Impact	The contract maximum is \$265,809.60.
Funding Source	No County General Funds are involved. State of Oregon, Community Mental Health Program (CMHP) funds are utilized.
Duration	Effective January 1, 2020 and terminates on June 30, 2021.
Previous Board Action	This is the renewal of Contract #8850. Previous contract reviewed and approved September 19, 2019, Agenda Item 091919-A2.
Counsel Review	Reviewed September 8, 2020 (AN)
Procurement Review	Was this item reviewed by Procurement? No Not required for subrecipient agreements.
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
Agreement No.	#9495 (#20-035)

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of Subrecipient Agreement #9495 (#20-035) with Lifeworks NW for providing Intensive Case Management (ICM) services to residents who are eligible Clackamas County residents. LifeWorks NW is a not-for-profit behavioral health agency that promotes a health community by provided quality and culturally responsive mental health and addiction services across the lifespan. The Behavioral Health Division has collaborated with Lifeworks Northwest for behavioral health services since 2005.

Intensive Case Management Services are provided with evidence-based, culturally and linguistically appropriate clinical services and strategies with support mental health recovery for Clackamas County clients. Services include, but are not limited to, mental health assessment, treatment planning, coordination of care, client family and group therapy, mental health and addiction services, hospital discharge planning, psychiatric assessment and medication

evaluation, management and/or monitoring, access to resources, support services, family support and education, and substance abuse services. As well as activities to promote symptom stability, physical health, and restoration of personal, community living and social skills.


The Agreement, effective January 1, 2020 through June 30, 2021, has a maximum value of \$265,809.60. County Counsel reviewed and approved this agreement September 8, 2020.

This Subrecipient Agreement is retroactive due to changes in the State's coordinated care system and the impact of COVID-19 normal business operations. LifeWorks NW provided ongoing critical services for Clackamas County residents, ensuring there is no gap in service.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, H3S Deputy Director / FME

Richard Swift, Director
Health, Housing and Human Services

**CLACKAMAS COUNTY, OREGON
SUBRECIPIENT GRANT AGREEMENT 20-035**

Project Name: *Intensive Case Management*

Behavioral Health Agreement #: **9495**

Project Number: **36060 – Community Mental Health Block Grant (CFDA 93.958)**

This Agreement is between Clackamas County, Oregon, acting by and through its Department of Health, Housing and Human Services, Behavioral Health Division ("COUNTY"), and LifeWorks NW ("SUBRECIPIENT"), an Oregon Non-profit Organization.

Clackamas County Data

Grant Accountant: Ke`ala Adolpho

Program Manager: Elise Thompson

Clackamas County – Finance
2051 Kaen Road
Oregon City, OR 97045
(503) 742-5410
KAdolpho@clackamas.us

Clackamas County – Behavioral Health Division
2051 Kaen Road, Suite 154
Oregon City, OR 97045
(503) 742-5353
EThompson@clackamas.us

Subrecipient Data

Finance/Fiscal Representative: Rachel Stark

Program Representative: Mary Monnat

LifeWorks NW
14600 NW Cornell Road
Portland, OR 97229
503-645-3581
Rachel.stark@lifeworksnw.org

LifeWorks NW
14600 NW Cornell Road
Portland, OR 97229
503-645-3581
contracts@lifeworks.org

DUNS: 114152077

RECITALS

WHEREAS, COUNTY is a political subdivision of the State of Oregon;

WHEREAS, COUNTY holds an Intergovernmental Agreement ("IGA") for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159) with the State of Oregon acting by and through its Oregon Health Authority ("OHA") for the biennium term of 2019-2021;

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

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

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

WHEREAS, OHA is willing, upon the terms of and conditions of the aforementioned IGA, to provide

financial assistance to COUNTY to operate or contract for the operation of its community addictions and mental health programs;

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

WHEREAS, SUBRECIPIENT is a not-for-profit behavioral health agency that promotes a healthy community by providing quality and culturally-responsive mental health and addiction services across the lifespan.

THEREFORE, the parties seek to provide a whole health approach to addressing issues of mental health and addiction services to serve Clackamas County residents through this Subrecipient Grant Agreement of federal financial assistance, which sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

According to the terms of this Subrecipient Grant Agreement (this "Agreement") COUNTY and SUBRECIPIENT agree as follows:

AGREEMENT

- 1. Term and Effective Date.** Pursuant to the terms of the grant award, this Agreement shall be effective **January 1, 2020** and shall expire on **June 30, 2021**, unless sooner terminated or extended pursuant to the terms hereof.
- 2. Program.** The Program is described in attached **Exhibit A: Scope of Work**. SUBRECIPIENT agrees to carry out the program in accordance with the terms and conditions of this Agreement.
- 3. Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Community Mental Health Program ("CMHP") IGA 159159 awarded on June 26, 2019, which is/are the source of the grant funding, in addition to compliance with requirements of Title 42 of the *Code of Federal Regulations* ("CFR"), Part 6A, Sub-Part II & III. A copy of the relevant sections of that grant award have been provided to SUBRECIPIENT by COUNTY, which are attached to and made a part of this Agreement by reference. SUBRECIPIENT shall further comply with any requirements required by U.S. Department of Health and Human Services, together with any and all terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State and Federal funding requirements.
- 4. Grant Funds.** COUNTY's funding for this Agreement is the 2019-2021 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159). The maximum, not to exceed, grant amount COUNTY will pay is **\$265,809.60**. This is a rate-based agreement and disbursements will be made in accordance with the schedule and requirements contained in **Exhibit D: Required Financial Reporting and Reimbursement Request** and **Exhibit E: Performance Measures and Reporting**.

Failure to comply with the terms of this Agreement may result in withholding of payment. Funding for this Agreement is from the following sources:

- 4.1. **Federal Funds: \$265,809.60** in federal funds are provided through the Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159) (CFDA 93.958) issued to COUNTY by the State of Oregon acting by and through its OHA. The State of Oregon receives funds through the Mental Health Block Grant (MHBG) funds from the U.S. Department of Health and Human Services, Office of Substance Abuse and Mental Health Services Administration.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty-five (45) calendar days before this Agreement expires. No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement except for the final payment. The final request for payment must be submitted to COUNTY no later than ten (10) days after the end date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.
6. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other upon thirty (30) business days-notice. This notice may be transmitted in person, by certified mail, facsimile, or by email.
7. **Effect of Termination.** The expiration or termination of this Agreement, for any reason, shall not release SUBRECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:
 - a. Has already accrued hereunder;
 - b. Comes into effect due to the expiration or termination of the Agreement; or
 - c. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement, SUBRECIPIENT shall promptly identify all unexpended funds and return all unexpended funds to COUNTY. Unexpended funds are those funds received by SUBRECIPIENT under this Agreement that (i) have not been spent or expended in accordance with the terms of this Agreement; and (ii) are not required to pay allowable costs or expenses that will become due and payable as a result of the termination of this Agreement.

8. **Funds Available and Authorized.** COUNTY certifies that funds sufficient to pay for this Agreement have been obligated to COUNTY. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 7.
10. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
 - a) **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures

required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.

- b) **Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within thirty (30) days of becoming aware of the likely or actual changes and a statement of whether or not SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
- c) **Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal Government shall be the liability of SUBRECIPIENT.
- d) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- e) **Match.** Matching funds are not required for this Agreement.
- f) **Budget.** SUBRECIPIENT's use of funds may not exceed the amounts specified in the **Exhibit B: Subrecipient Program Budget**. At no time may budget modification change the scope of the original grant application or Agreement.
- g) **Indirect Cost Recovery.** Indirect cost recovery is not available on this award.
- h) **Research and Development.** SUBRECIPIENT certifies this award is not for research and development purposes.
- i) **Payment.** SUBRECIPIENT must submit a final request for payment **no later than ten (10) days after the end date of this Agreement**. Routine requests for reimbursement should be submitted as specified in **Exhibit D: Required Financial Reporting and Reimbursement Request**.
- j) **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in **Exhibit E: Performance Measures and Report** for each period (monthly, quarterly, and final) during the term of this Agreement.
- k) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or SUBRECIPIENT, in accordance with Treasurer Regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed **Exhibit D: Required Financial Reporting and Reimbursement Request** on a monthly basis.
- l) **Closeout.** COUNTY will closeout this award when COUNTY determines all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.343—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (**Exhibits D & F**), performance (**Exhibit E**), and other reports as required by the terms and conditions of the federal award and/or COUNTY, no later than ninety (90) calendar days after the end date of this Agreement.
- m) **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number using the Data Universal

Numbering System ("DUNS") as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, located at <http://www.sam.gov>.

- n) **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <https://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- o) **Lobbying.** SUBRECIPIENT certifies (**Exhibit C: Lobbying Certificate**) that no portion of the federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U. S. C. 1352. In addition, SUBRECIPIENT certifies it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- p) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. SUBRECIPIENTS of federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse ("FAC") within nine (9) months from SUBRECIPIENT'S fiscal year end or thirty (30) days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within nine (9) months from SUBRECIPIENT's fiscal year end or thirty (30) days after issuance of the reports, whichever is sooner.
- q) **Monitoring.** SUBRECIPIENT agrees to allow COUNTY and the Oregon Health Authority access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring in accordance with 2 CFR 200.331. COUNTY, OHA, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY's discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.
- r) **Specific Conditions.** SUBRECIPIENT shall submit general ledger backup, with detail, with each claim for reimbursement for the duration of this award.

- s) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337.
- t) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services Agreement No. 159159, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the Clackamas County, as grantee, under those grant documents.
- u) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by SUBRECIPIENT in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to COUNTY at law, in equity, or under this Agreement.

11. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal Government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse; and (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT. Additional requirements are as specified in 45 CFR Part 96; also portions of the 2 CRF Part 200/45 CFR Part 75. No federal funds may be used to provide services in violation of 42 U.S.C. 14402.
- b) **Rights to Inventions Made Under a Contract or Agreement.** SUBRECIPIENT agrees that contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.
- c) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this Agreement is in excess of \$150,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding

Federal Department and the appropriate Regional Office of the Environmental Protection Agency. SUBRECIPIENT shall include and require all Providers to include in all contracts with subcontractors receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.

- d) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- e) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request COUNTY to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) creates a problem for the design or delivery of other Services required under the Agreement. COUNTY shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- f) **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- g) **Mileage reimbursement.** If mileage reimbursement is authorized in SUBRECIPIENT budget or by the written approval of COUNTY, mileage must be paid at the rate established by SUBRECIPIENT'S written policies covering all organizational mileage reimbursement or at the IRS mileage rate at the time of travel, whichever is lowest.
- h) **Human Trafficking.** In accordance with 2 CFR Part 175, SUBRECIPIENT, its employees, contractors and subrecipients under this Agreement and their respective employees may not:
 - 1) Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
 - 2) Procure a commercial sex act during the period of time the award is in effect; or
 - 3) Used forced labor in the performance of the Agreement or subaward under this Agreement, as such terms are defined in such regulation.

SUBRECIPIENT must inform COUNTY immediately of any information SUBRECIPIENT receives from any source alleging a violation of any of the above prohibitions in the terms of this Agreement. COUNTY may terminate this Agreement, without penalty, for violation of these provisions. COUNTY's right to terminate this Agreement unilaterally, without penalty, is in addition to all other remedies under this Agreement. SUBRECIPIENT must include these requirements in any subaward made to public or private entities under this Agreement.

12. Federal and State Procurement Standards

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source

procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.

- b) COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, as they pertain to the purchase of goods and services under this Agreement and which are incorporated by reference herein.
- c) SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals ("RFP") for a proposed procurement must be excluded by SUBRECIPIENT from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- d) SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

13. General Agreement Provisions.

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its elected officials, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.

To the extent permitted by applicable law, SUBRECIPIENT 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, the Oregon Health Authority, 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 SUBRECIPIENT, including but not limited to the activities of SUBRECIPIENT or its officers, employees, subcontractors or agents under this AGREEMENT.

SUBRECIPIENT 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 SUBRECIPIENT or any of the officers, agents, employees or subcontractors of SUBRECIPIENT ("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 SUBRECIPIENT from and against any and all Claims.

- c) **Insurance.** COUNTY shall enforce SUBRECIPIENT compliance with the insurance requirements outlined herein, and shall take all reasonable steps to enforce such compliance. Examples of reasonable steps include issuing stop work orders until the insurance is in full force, terminating this Agreement, as permitted herein, or pursuing legal action to enforce such requirements. During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance required in **Exhibit J: Insurance**.
- d) **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
- e) **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
- f) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- g) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- h) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- i) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- j) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- k) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.

- l) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

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

- | | | |
|-------------------------------------|-----------|-------------------------------------------------------------|
| <input checked="" type="checkbox"/> | Exhibit A | Subrecipient Scope of Work |
| <input checked="" type="checkbox"/> | Exhibit B | Subrecipient Program Budget |
| <input checked="" type="checkbox"/> | Exhibit C | Lobbying Certificate |
| <input checked="" type="checkbox"/> | Exhibit D | Required Financial Reporting and Reimbursement Request |
| <input checked="" type="checkbox"/> | Exhibit E | Performance Measures and Reporting |
| <input checked="" type="checkbox"/> | Exhibit F | Final Financial Report |
| <input checked="" type="checkbox"/> | Exhibit G | CMHP Required Federal Terms and Conditions |
| <input checked="" type="checkbox"/> | Exhibit H | CMHP Required Provider Agreement Provisions |
| <input checked="" type="checkbox"/> | Exhibit I | CMHP Service Element |
| <input checked="" type="checkbox"/> | Exhibit J | Insurance |
| <input checked="" type="checkbox"/> | Exhibit K | Qualified Service Organization Business Associate Agreement |

(Signature Page Follows)

SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

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

LIFEWORKS NW

By: 
Authorized Signature

Mary Monnat 10/14/20
Printed Name Date

14600 NW Cornell Road
Street Address

Portland, OR 97229
City / State / Zip

(503) 645-3581 (503) 690-9605
Phone / Fax

CLACKAMAS COUNTY

Commissioner: Jim Bernard, Chair
Commissioner: Sonya Fischer
Commissioner: Ken Humberston
Commissioner: Paul Savas
Commissioner: Martha Schrader

Signing on Behalf of the Board:

Rod Cook, Assistant Director
Health, Housing & Human Service Department

Date

Approved to Form:


County Counsel

10/15/2020
Date

EXHIBIT A SUBRECIPIENT SCOPE OF WORK

PROJECT NAME: Intensive Case Management (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	AGREEMENT No. 20-035
SUBRECIPIENT: LifeWorks NW	

SERVICE DESCRIPTION

SUBRECIPIENT shall provide intensive case management services with evidence-based, culturally, and linguistically appropriate clinical services and strategies which support mental health recovery for Clackamas County clients.

1. Intensive Case Management ("ICM") Services
 - A. SUBRECIPIENT shall provide or arrange for the provision of the following services, as appropriate:
 - I. Mental health assessment, level of need determination and treatment planning;
 - II. Case management and coordination of care;
 - III. Client family and group therapy based on Evidence-Based Practices;
 - IV. Integrated Adult mental health and addiction services including case management, supported employment, psychiatric and addiction services;
 - V. Flexible and wraparound Services;
 - VI. Recovery oriented and trauma informed mental health services;
 - VII. In-home and community based services; engaging clients in community settings;
 - VIII. Crisis services during business hours and 24 hour/7 day per week response by phone and/or in person by staff who are familiar with the client to de-escalate crisis situations;
 - IX. On-site hospital discharge planning, coordination and discharge planning;
 - X. Psychiatric assessment and medication evaluation, management, and/or monitoring;
 - XI. Mental health support services to adult residential facilities and transitional housing programs to authorized clients;
 - XII. Services for clients with specialized health care needs such as medical and psychiatric co-morbidity, developmental disabilities, and chronic homelessness and addiction disorders;
 - XIII. Alignment of service delivery with individual, culturally specific needs of adult and family;
 - XIV. Family support and education;
 - XV. Substance abuse services;
 - XVI. Other individualized clinically necessary services; and
 - XVII. Activities designed to promote: symptom stability and appropriate use of medication; restore personal, community living and social skills; promote and maintain physical health; establish access to entitlements, housing, living independently in the community, work, and social opportunities; and maintain the highest possible level of functioning in the community.
 - B. Key service delivery standards of ICM include, but are not limited to: assertive outreach; engagement of clients in the community; use of targeted practices and techniques to engage and motivate clients; a multidisciplinary team approach;

smaller staff-to-client ratios than traditional case management; and a focus on recovery goals.

- C. Intensive Case Management services is for adults ages eighteen (18) and up with diagnoses of nonorganic psychosis, bipolar or long-term depression; with severe functional impairments; who may have complicating medical conditions, co-occurring substance abuse disorders and/or a developmental disability; and who have avoided or not responded well to traditional outpatient mental health care and psychiatric rehabilitation services.
- D. SUBRECIPIENT shall attempt to engage clients and provide access for a second appointment within fourteen (14) days of the first visit and an additional two visits after fourteen (14) days to total four (4) clinical visits within the first forty-five (45) days of care.
- E. SUBRECIPIENT shall assure access to psychiatric services when medically appropriate. Routine assessments shall be performed to effectively coordinate all treatment, manage medication trials and/or adjustments, monitor for and minimize serious side effects, and provide medical management of all psychiatric problems.
- F. Services provided will be those required to effectively prevent deterioration or stabilize adults who are at risk of injury to self or others due to major mental illness, or a significantly impairing emotional or behavioral disorder. The conditions that are covered are outlined by the Oregon Health Plan and have corresponding DSM-5 codes. Services provided to clients shall be community and facility based.
- G. To increase each individual's success in community living, SUBRECIPIENT will operate in close collaboration with families, providers of physical health care, psychiatric inpatient units, alcohol and drug treatment services, law enforcement and parole and probation, housing, social services, shelter services, employment services and educational programs.
- H. SUBRECIPIENT shall provide referral and coordination of admission and discharge to psychiatric acute care, sub-acute psychiatric care, respite services, residential services, or other acute care or exceptional needs services in cooperation with County Care Coordination staff in Clackamas County. This includes on-site hospital meetings for purposes of intake and discharge planning. SUBRECIPIENT shall arrange for a post discharge follow-up appointment within seven (7) days of acute/hospital, sub-acute or residential-based care discharge.
- I. Evidence Based Practices ("EBP") Intensive Case Management Services ("ICM") for clients
 - I. ICM is intended for SMI clients who have been unable or unwilling to adequately engage in "traditional" outpatient services yet continue to suffer significant impairment due to their mental illness and who meet CareOregon Adult Level of Care Utilization Management Guidelines for level D.
- J. SUBRECIPIENT shall ensure that measurement of active treatment outcomes shall include, but are not limited to:
 - I. Reduction of inappropriate acute care admissions or other high utilization patterns;
 - II. Stabilization of the acuity and severity of symptoms;
 - III. Reduction of danger to self or others;

- IV. Improvement in the level of function;
 - V. Stabilization of behavior and conduct; and
 - VI. Strengthening of coordinated community-based services and supports.
- K. Services shall meet the fidelity standards in the Evaluating Your Program Appendix B: Integrated Treatment Fidelity Scale and Score Sheet.
2. SUBRECIPIENT shall comply with ORS 182.515 and 182.525 Evidence-Based Programs.

STAFFING

1. Intensive Case Management Services
 - A. SUBRECIPIENT shall provide clinical care and treatment to adults under the direction of a psychiatrist and by an interdisciplinary team of psychiatrists, registered nurses, psychologist, other qualified mental health professionals, and other relevant program staff within a time frame consistent with standards of good practice and generally recognized by the relevant scientific community as a timely and effective service to prevent, diagnose and treat the mental health condition.
 - B. For ICM services, SUBRECIPIENT shall maintain a maximum caseload ratio of 20:1.
 - C. ICM services are provided by an interdisciplinary team that ensures service availability twenty-four (24) hours a day, seven (7) days per week and is prepared to carry out a full range of treatment functions wherever and whenever needed. SUBRECIPIENT shall have a low staff to client ratio (not to exceed 20:1) and a "whatever it takes" community-based service delivery approach. Services will be flexible, adapting to each client's changing needs and personal recovery goals. Individuals are referred to the ICM team when it has been determined that the individual's needs are so pervasive and/or unpredictable that they cannot be met effectively by any other combination of available community services.

CRISIS RESPONSE

Provider shall maintain an after-hours crisis response phone number and provide that response number to each County's Call Center Manager in every County they operate each year on July 1.

SUBRECIPIENT shall notify Call Center management staff immediately if the after-hours crisis response phone number changes during the course of the year.

ELIGIBILITY AND AUTHORIZATION

ICM is intended for SMI clients who have been unable or unwilling to adequately engage in "traditional" outpatient services yet continue to suffer significant impairment due to their mental illness.

Eligibility and authorization to be provided by Clackamas County Behavioral Health Division's Adult Team Supervisor.

EXHIBIT B
SUBRECIPIENT PROGRAM BUDGET

PROJECT NAME: Intensive Case Management (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	AGREEMENT No. 20-035
SUBRECIPIENT: LifeWorks NW	

SUBRECIPIENT shall be compensated a capacity payment, for **nine (9) slots**, of **\$14,767.20 per month**, **not to exceed \$265,809.60** for the term of the Agreement.

SUBRECIPIENT shall invoice COUNTY monthly at the rates specified.

EXHIBIT C
LOBBYING CERTIFICATE

PROJECT NAME: Intensive Case Management (Fund Source: Community Mental Health Block Grant 93.958)	AGREEMENT No. 20-035
SUBRECIPIENT: LifeWorks NW	

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

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

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

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

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

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

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

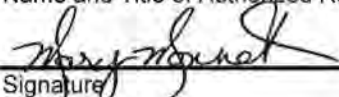
LifeWorks NW	36060 – Community Mental Health Block Grant (CFDA 93.958)
Organization Name	Award Number or Project Name
Mary Monnat, President/CEO	
Name and Title of Authorized Representative	
	10/14/20
Signature	Date

EXHIBIT D
REQUIRED FINANCIAL REPORTING AND REIMBURSEMENT REQUEST

PROJECT NAME: Intensive Case Management (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	AGREEMENT No. 20-035
SUBRECIPIENT: LifeWorks NW	

1. SUBRECIPIENT shall submit a monthly Request for Reimbursement referencing grant agreement number 20-035 and contract #9495.
2. Requests for reimbursement shall be submitted by the **10th of the month** for the previous month. The final request for reimbursement shall be submitted by July 10, 2021 for June 30, 2021 expenses.
3. Request for Reimbursement shall be submitted electronically to:

BHAP@clackamas.us, EThompson@clackamas.us and MWestbrook@clackamas.us

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

EXHIBIT E PERFORMANCE MEASURES AND REPORTING

PROJECT NAME: Intensive Case Management (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	AGREEMENT No. 20-035
SUBRECIPIENT: LifeWorks NW	

PROGRAM PERFORMANCE MEASURES

1. SUBRECIPIENT shall implement Outcomes Based Care initiative developed and implemented by CareOregon. For all ICM clients, Subrecipient shall collect and maintain self-report outcomes assessment(s), per regionally agreed upon outcomes tool instructions, intake and as appropriate per selected measure.
2. SUBRECIPIENT shall employ a system of internal review to evaluate the care being provided within the agency, to modify treatment plans, adjust level of care being provided and consider duration of treatment. Subrecipient will have a system of internal utilization management to assure services are medically necessary.
3. SUBRECIPIENT shall develop, maintain and monitor a quality improvement plan consistent with Oregon Administrative Rule requirements including written policies, standards, and procedures. Consistent with the Quality Assurance and Performance Improvement Plan ("QAPI"), SUBRECIPIENT will participate in all required quality improvement activities and follow established procedures for collection and distribution of all required quality improvement indicators.
4. Services will be reviewed critically to determine if medically necessary and modified to reflect the client's need rather than to simply maintain the status quo. Any service not determined to be medically necessary will be eliminated or transitioned to other community providers such as support groups, religious organizations, client-run programs, etc.

REPORTING REQUIREMENTS

SUBRECIPIENT shall comply with the reporting requirements identified in **Exhibit I: CMHP Service Element**.

CRITICAL INCIDENT REPORTING

Clackamas County Behavioral Health Division ("BHD") defines a reportable incident as an event in which an individual is believed to have been abused, endangered, or significantly harmed. A reportable incident may include, but is not limited to, any serious incident that presents a risk to health and safety and may be a result of staff action or inaction, incidents between individuals, incidents that occur on passes, or incidents of self-harm where medical attention is necessary. Any such incident involving a client that occurs on SUBRECIPIENT's premises, with SUBRECIPIENT staff, or during the course of treatment by SUBRECIPIENT must be reported.

Examples of reportable incidents include:

- Seclusion and/or restraint resulting in physical injury

- Runaway from program or while on pass
- Medication error, which a reasonable person would conclude might have resulted in a death, serious injury or hospitalization. {Notes: Medication non-compliance does not have to be reported unless there is a resulting reportable event; medications missed while hospitalized does not have to be reported}
- ***Severe property damage***
- ***Serious injury resulting in medical attention***
- ***Significant suicide attempt resulting in medical attention***
- ***Death of a client/resident***
- ***Death or serious injury of another individual caused by the client/resident***
- ***Physical attack on another individual resulting in a physical injury***
- ***Mandatory reporting event***
- ***Allegation of abuse by program staff {See OAR 407-045-0290(5)}***

Procedure

- 1) **Items above in bold, italicized lettering require immediate notification to COUNTY Program Supervisor when such an incident occurs.**
- 2) SUBRECIPIENT shall send via secure email a copy of the incident report with twenty-four (24) hours, using the following address:

Secure email: NBenner@clackamas.us

- 3) Be advised that submitting an incident report **does not fulfill abuse reporting obligations**. Depending on the nature of the incident, an abuse report may also be required per the Abuse Reporting requirement noted above and in this Agreement. In the event of a death in which there is reasonable cause to believe that an adult has died as a result of abuse, the provider must also:
 - A. Notify OHA/Addictions and Mental Health Division of the incident **(855-503-SAFE)**.
 - B. Report the death to Clackamas County's Mental Health Abuse Investigators at **(503) 650-3000**. The State of Oregon, Addictions and Mental Health Division requires Clackamas County Adult Protective Service Investigators to investigate any death of a client receiving mental health services.
 - C. Submit evidence to the Clackamas County Adult Protective Service Investigator that the report has been made by sending, via secure email, a copy of the confirmed fax which notified the Division of the reportable incident. The report is to be sent to the email address above.

**EXHIBIT F
 FINAL FINANCIAL REPORT**

PROJECT NAME: Intensive Case Management (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	Agreement #: 20-035 Date of Submission: XX/XX/XX
Has Subrecipient submitted all requests for reimbursement? Yes / No	
Has Subrecipient met all programmatic closeout requirements? Yes / No	

Final Financial Report

Report of Funds received, expended, and reported as match (if applicable) under this agreement

Total Federal Funds authorized on this Agreement:	
Year-to-Date Federal Funds requested for payment on this Agreement:	
Total Federal Funds received on this Agreement:	
Balance of unexpended Federal Funds (Line 1 minus Line 3):	

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Subrecipient's Certifying Official (printed): _____

Subrecipient's Certifying Official (signature): _____

Subrecipient's Certifying Official's title: _____

EXHIBIT G CMHP REQUIRED FEDERAL TERMS AND CONDITIONS

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

1. **Miscellaneous Federal Provisions.** SUBRECIPIENT shall comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Services. Without limiting the generality of the foregoing, SUBRECIPIENT expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Services in violation of 42 U.S.C. 14402.
2. **Equal Employment Opportunity.** SUBRECIPIENT 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 Agreement, including amendments, exceeds \$150,000 SUBRECIPIENT 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. Subrecipients 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.** SUBRECIPIENT 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 Agreement, SUBRECIPIENT certifies, to the best of SUBRECIPIENT's knowledge and belief that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of SUBRECIPIENT, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any

- federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative 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, SUBRECIPIENT shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - c. SUBRECIPIENT 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 Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - e. No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
 - f. No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
 - g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
 - h. No part of any federal funds paid to SUBRECIPIENT under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
6. **Resource Conservation and Recovery.** SUBRECIPIENT 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.** SUBRECIPIENT, as defined in 45 CFR 75.2, shall comply with applicable Code of Federal Regulations (CFR) governing expenditure of federal funds. If SUBRECIPIENT 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 SUBRECIPIENT 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.** SUBRECIPIENT 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.** SUBRECIPIENT shall comply with the following provisions to maintain a drug-free workplace: (i) SUBRECIPIENT certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in SUBRECIPIENT's workplace or while providing Services to OHA clients. SUBRECIPIENT's notice shall specify the actions that will be taken by SUBRECIPIENT against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, SUBRECIPIENT's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of Services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) 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 SUBRECIPIENT, or any of SUBRECIPIENT's employees, officers, agents may provide any Service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent has used a controlled substance, prescription or

non-prescription medication that impairs SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent or SUBRECIPIENT'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 Agreement.

10. **Pro-Children Act.** SUBRECIPIENT 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 SUBRECIPIENT provides any Service in which costs are paid in whole or in part by Medicaid, SUBRECIPIENT shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
 - a. Keep such records as are necessary to fully disclose the extent of the services provided to Individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a (a)(27); 42 CFR 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. SUBRECIPIENT shall acknowledge Subrecipient's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid agreement) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, 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.** SUBRECIPIENT 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, SUBRECIPIENT shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an Individual may apply for or receive an application for public assistance.
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 ten (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 Addiction Treatment, Recovery & Prevention Services for Agencies receiving Substance Abuse Prevention and Treatment (SAPT) Block Grant funds.

- a. **Order for Admissions:**
 - (i) Pregnant women who inject drugs;
 - (ii) Pregnant substance abusers;
 - (iii) Other Individuals who inject drugs; and
 - (iv) All others.
- b. **Women's or Parent's Services.** If Subrecipient provides A&D 61 and A&D 62 Services, Subrecipient must:
 - (i) Treat the family as a unit and admit both women or parent and their children if appropriate.
 - (ii) Provide or arrange for the following services to pregnant women and women with dependent children:
 - 1. Primary medical care, including referral for prenatal care;
 - 2. Pediatric care, including immunizations, for their children;
 - 3. Gender-specific treatment and other therapeutic interventions, e.g. sexual and physical abuse counseling, parenting training, and childcare;
 - 4. 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
 - 5. Appropriate case management services and transportation to ensure

that women or parents and their children have access to the services in 1 through 4 above.

- c. **Pregnant Women.** If SUBRECIPIENT provides any Addiction Treatment, Recovery & Prevention Services other than A&D 84, Problem Gambling, Client Finding Outreach Services, Subrecipient must:
- (i) 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 forty-eight (48) hours;
 - (ii) If SUBRECIPIENT has insufficient capacity to provide treatment Services to a pregnant woman, Subrecipient 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 forty-eight (48) hours, including a referral for prenatal care; and
 - (iii) 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 SUBRECIPIENT provides any Addiction Treatment, Recovery & Prevention Services other than A&D 84, Problem Gambling, Client Finding Outreach Services, SUBRECIPIENT must:
- (i) 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;
 - (ii) Programs that receive funding under the grant and that treat Individuals for intravenous substance abuse, upon reaching ninety (90) percent of its capacity to admit Individuals to the program, must provide notification of that fact to the State within seven (7) calendar days;
 - (iii) If SUBRECIPIENT receives a request for admission to treatment from an intravenous drug abuser, Subrecipient must, unless it succeeds in referring the Individual to another Provider with treatment capacity, admit the Individual to treatment not later than:
 - 1. Fourteen (14) calendar days after the request for admission to Subrecipient is made;
 - 2. One hundred-twenty (120) 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 forty-eight (48) hours after such request; or
 - 3. If SUBRECIPIENT 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 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 forty-eight (48) hours.
- e. **Infectious Diseases.** If SUBRECIPIENT provides any Addiction Treatment,

Recovery & Prevention Services, other than A&D 84, Problem Gambling, Client Finding Outreach Services, SUBRECIPIENT must:

- (i) Complete a risk assessment for infectious disease including human immunodeficiency virus (HIV) and tuberculosis (TB), as well as sexually transmitted diseases, based on protocols established by OHA, for every Individual seeking Services from SUBRECIPIENT; and
 - (ii) 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 SUBRECIPIENT denies an Individual admission on the bases of lack of capacity, refer the Individual to another provider of tuberculosis services.
 - (iii) For purposes of (ii) above, "tuberculosis services" means:
 - 1. Counseling the Individual with respect to tuberculosis;
 - 2. 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
 - 3. Appropriate treatment services.
- f. **OHA Referrals.** If SUBRECIPIENT provides any Addiction Treatment, Recovery & Prevention Services, other than A&D 84, Problem Gambling, Client Finding Outreach Services, SUBRECIPIENT 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 Addiction Treatment, Recovery & Prevention and Problem Gambling Service delivery to persons referred by OHA.
- g. **Barriers to Treatment.** Where there is a barrier to delivery of any Addiction Treatment, Recovery & Prevention and Problem Gambling Service due to culture, gender, language, illiteracy, or disability, SUBRECIPIENT shall develop support services available to address or overcome the barrier, including:
 - (i) Providing, if needed, hearing impaired or foreign language interpreters.
 - (ii) Providing translation of written materials to appropriate language or method of communication.
 - (iii) Providing devices that assist in minimizing the impact of the barrier.
 - (iv) Not charging clients for the costs of measures, such as interpreters, that are required to provide nondiscriminatory treatment.
- h. **Misrepresentation.** SUBRECIPIENT 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.** Addiction Treatment, Recovery & Prevention and Problem Gambling Services funded through this Agreement, 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 SUBRECIPIENT has Addiction Treatment, Recovery & Prevention Services treatment capacity that has been designated for children, adolescents, pregnant women, and women with dependent children, SUBRECIPIENT 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.** SUBRECIPIENT must comply with 42 CFR Part 2 when delivering an Addiction Treatment, Recovery & Prevention Service that includes

disclosure of Client information for purposes of eligibility determination. SUBRECIPIENT 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 an Addiction Treatment, Recovery & Prevention Service to that Individual.

16. Special Federal Requirements Applicable To Addiction Treatment, Recovery & Prevention Services for Subrecipients Receiving Temporary Assistance for Needy Families (TANF) Grant Funds.

Funding Requirements. TANF may only be used for families receiving TANF, and for families at-risk of receiving TANF, and for the purpose of providing housing services (room and board) for Individuals who are dependent children ages eighteen (18) years or younger whose parent is in adult addiction residential treatment, so that the children may reside with their parent in the same treatment facility. Families at-risk of receiving TANF must:

- a. Include a dependent child age eighteen (18) years of age or under, who is living with a parent or caretaker relative. "Caretaker relative" means a blood relative of the child; stepmother, stepfather, stepbrother, or stepsister, or an individual who has legally adopted the child.
- b. Be an Oregon resident.
- c. Have income at or below 25% of the Federal Poverty Level.

Use of TANF block grant funds and state expenditures counted towards TANF MOE must meet the requirements of 45 CFR Part 263. Only non-medical services may be provided with TANF Block Grant Funds.

17. Community Mental Health Block Grant (CFDA 93.958). All funds, if any, awarded under this Agreement for Community 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 SUBRECIPIENT shall comply with those restrictions.

18. Substance Abuse Prevention and Treatment (CFDA 93.959). To the extent SUBRECIPIENT provides any Service in which costs are paid in whole or in part by the Substance Abuse, Prevention, and Treatment Block Grant, SUBRECIPIENT 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 SUBRECIPIENT provides any substance abuse prevention or treatment services, SUBRECIPIENT shall comply with the confidentiality requirements of 42 CFR Part 2. CMHP may not use the funds received under this Agreement for inherently religious activities, as described in 45 CFR Part 87.

19. 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/hsd/amh/Pages/federal-reporting.aspx>.

20. Super Circular Requirements. 2 CFR Part 200, or the equivalent applicable provision adopted by the awarding agency in 2 CFR Subtitle B, including but not limited to the following:

- a. **Property Standards.** 2 CFR 200.313, or the equivalent applicable provision adopted

by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.

- b. Procurement Standards.** When procuring goods and services (including professional consulting services), applicable state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B, and 279C or 2 CFR §§ 200.318 through 200.326, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, as applicable.
- c. Contract Provisions.** The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit, are, to the extent applicable, obligations of SUBRECIPIENT.

EXHIBIT H CMHP REQUIRED AGREEMENT PROVISIONS

1. **Expenditure of Funds.** SUBRECIPIENT may expend the funds paid to SUBRECIPIENT under this Agreement solely on the delivery of services subject to the following limitations (in addition to any other restriction of limitations imposed by this Agreement):
 - a. SUBRECIPIENT may not expend on the delivery of Service any funds paid to SUBRECIPIENT under this Agreement in excess of the amount reasonable and necessary to provide quality delivery of these Services.
 - b. If this Agreement requires SUBRECIPIENT to deliver more than one service, Subrecipient may not expend funds paid to Subrecipient under this Agreement for a particular service on the delivery of any other service.
 - c. If this Agreement requires SUBRECIPIENT to deliver Addiction Treatment, Recovery & Prevention, and Problem Gambling Services, Subrecipient may not use the funds paid to SUBRECIPIENT under this Agreement for such services to:
 - i. Provide inpatient hospital services;
 - ii. Make cash payment to intended recipients of health services;
 - iii. 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;
 - iv. 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 Agreement or otherwise);
 - v. 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 Agreement 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. SUBRECIPIENT may expend funds paid to SUBRECIPIENT under this Agreement only in accordance with OMB Circulars or 45 CFR Part 75, as applicable on Allowable Costs. If Subrecipient 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 SUBRECIPIENT 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. SUBRECIPIENT, if subject to this requirement, shall at SUBRECIPIENT'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 Agreement and shall submit or cause to be submitted to OHA the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of SUBRECIPIENT responsible for the financial management of funds received under this Agreement. 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. SUBRECIPIENT may not use the funds received under this Agreement 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 SUBRECIPIENT that are directly related to this Agreement, the funds paid to SUBRECIPIENT hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, SUBRECIPIENT shall permit authorized representatives of COUNTY and the Oregon Health Authority to perform site reviews of all services delivered by SUBRECIPIENT hereunder.
- b. **Retention of Records.** SUBRECIPIENT shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the funds paid to SUBRECIPIENT hereunder or to any services delivered hereunder, for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the termination or expiration of this Agreement. If there are unresolved audit or other questions at the end of the six (6) year period, SUBRECIPIENT shall retain the records until the questions are resolved.
- c. **Expenditure Records.** SUBRECIPIENT shall document the expenditure of all funds paid to SUBRECIPIENT under this Agreement. Unless applicable federal law requires SUBRECIPIENT to utilize a different accounting system, SUBRECIPIENT 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 Subrecipient under this Agreement were expended.
- d. **Client Records.** Unless otherwise specified in this Agreement, SUBRECIPIENT shall create and maintain a client record for each client who receives services under this Agreement. The client record must contain:
 - i. Client identification;
 - ii. Problem assessment;
 - iii. Treatment, training and/or care plan;
 - iv. Medical information when appropriate; and
 - v. Progress notes including service termination summary and current assessment or evaluation instrument as designated by the Oregon Health Authority in administrative rules.

SUBRECIPIENT 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 (6) years from termination or expiration of this Agreement.

- e. **Safeguarding of Client Information.** SUBRECIPIENT shall maintain the confidentiality of Client records as required by applicable state and federal law, including without limitation, ORS 179.495 to 179.509, 45 CFR Part 205, 42 CFR Part 2, any administrative rule adopted by OHA implementing the foregoing laws, and any written policies made available to SUBRECIPIENT by COUNTY or OHA. SUBRECIPIENT 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/or OHA for review and inspection as reasonably requested by COUNTY or OHA.

- e. **Data Reporting.** All Individuals receiving Services with funds provided under this Agreement 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/hsd/amh-mots/Pages/index.aspx>, and the "Who Reports in MOTS Policy", as follows:

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:

- i. 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;
- ii. 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]);
- iii. 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
- iv. 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 there are any questions, contact MOTS Support at MOTS.Support@state.or.us.

3. **Alternative Formats of Written Materials.** In connection with the delivery of Services, SUBRECIPIENT shall:
- a. Make available to a Client, without charge to the Client, upon the Client's, COUNTY's or the Oregon Health Authority's request, an 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 SUBRECIPIENT.
 - 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 SUBRECIPIENT.
 - 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 SUBRECIPIENT.
 - 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 material" includes, without limitation, all written materials created or delivered in connection with the services and all subrecipient contracts related to this Agreement. COUNTY may develop its own forms and materials and with such forms and materials 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.** SUBRECIPIENT shall prepare and furnish the following information to COUNTY and the Oregon Health Authority when a service is delivered under this Agreement.
 - 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 COUNTY or the Oregon Health Authority reasonably requests.
5. **Compliance with Law.** SUBRECIPIENT shall comply with all state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the delivery of services hereunder. Without limiting the generality of the foregoing, SUBRECIPIENT expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement:
 - 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 Agreement.

The laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including SUBRECIPIENT, 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, SUBRECIPIENT shall comply, as if it were COUNTY thereunder, with the federal requirements set forth in **Exhibit G, CMHP Required Federal Terms and Conditions**, to the certain 2019-2021 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services between COUNTY and the Oregon Health Authority dates as of July 1, 2019, which Exhibit is incorporated herein by this reference. For purposes of the Agreement, all references in this Agreement to federal and state laws are references to federal and state laws as they may be amended from time to time.

6. Unless SUBRECIPIENT is a State of Oregon governmental agency, SUBRECIPIENT 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, SUBRECIPIENT 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 SUBRECIPIENT, including but not limited to the activities of SUBRECIPIENT or its officers, employees, subcontractors or agents under this Agreement.
8. SUBRECIPIENT understands that SUBRECIPIENT 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. SUBRECIPIENT shall only conduct transactions that are authorized by COUNTY for transactions with the Oregon Health Authority that involve COUNTY funds directly related to this Agreement.
10. SUBRECIPIENT (s) that are not units of local government as defined in ORS 190.003 shall obtain, at SUBRECIPIENT's expense, and maintain in effect with respect to all occurrences taking place during the term of the Agreement, insurance requirements as defined in the Agreement and incorporated herein by this reference (**Exhibit J, Insurance**).
11. SUBRECIPIENT (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 not 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 SUBRECIPIENT or any of the officers, agents, employees or subcontractors of the SUBRECIPIENT (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 SUBRECIPIENT from and against any and all claims.
12. SUBRECIPIENT shall include sections 1 through 11, in substantially the form set forth above, in all permitted SUBRECIPIENT contracts under this Agreement.
13. **Ownership of Intellectual Property.**
 - a. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, OHA and COUNTY will not own the right, title and interest in any intellectual property created or delivered by SUBRECIPIENT in connection with the Services. With respect to that portion of the intellectual property that the Subrecipient owns, SUBRECIPIENT grants to OHA and COUNTY a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to: (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property; (2) authorize third parties to exercise the rights set forth in Section 13.a.(1) on OHA and 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 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 Subrecipient 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 created or delivered by SUBRECIPIENT in connection with the Services, OHA will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable

license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to SUBRECIPIENT to use, copy distribute, display, build upon and improve the intellectual property.

EXHIBIT I CMHP SERVICE ELEMENT

MHS 20 – NON-RESIDENTIAL MENTAL HEALTH SERVICES FOR ADULTS

1. Service Description

a. Definition

DSM 5 means The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), incorporated by reference herein, 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.

b. MHS 20 Services are:

- i. 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.
- ii. Community-based services that shall include one or more of the following:
 1. 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;
 2. Apply OHA approved, standardized level of care tools for Individuals diagnosed with serious and persistent mental illness at intervals prescribed by OHA;
 3. Condition management and whole person approach to single or multiple conditions based on goals and needs identified by the Individual;
 4. General outpatient services including, but not limited to, care coordination and case management;
 5. Medication and medication monitoring;
 6. Meaningful Individual and family involvement;
 7. Rehabilitation services including Individual, family, and group counseling;
 8. Coordinate and facilitate access to appropriate housing services and community supports in the Individual's community of choice, including rent subsidy; and
 9. Other services and supports as needed for Individuals at the sole discretion of OHA.
- iii. SUBRECIPIENT shall provide Services, including but not limited to:
 1. Outreach: Partner with healthcare providers and other social service partners who provide screening for the presence of behavioral health conditions to facilitate access to appropriate services;
 2. Early Identification and Screening: Conduct periodic and systematic methods that identify Individuals with behavioral health conditions and potential physical health consequences of behavioral health conditions which consider epidemiological and community factors, as identified in the most recently submitted and approved Local Plan; and

3. Initiation and Engagement: Promote initiation and engagement of Individuals receiving services and supports, which may include but are not limited to:
 - a. Brief motivational counseling; and
 - b. Supportive services to facilitate participation in ongoing treatment.

2. Performance Requirements

SUBRECIPIENT shall:

- a. Provide coordination of care services for Individuals living in residential treatment programs. The coordination of care shall include participation in the residential Provider's treatment planning process and in planning for the Individual's transition to outpatient services;
- b. Comply with Outpatient Services, as described in OAR 309-019-0100 through 309-019-0220, and Community Treatment and Supports, as described in OAR 309-032-0301 through 309-032-0890, as such rules may be revised from time to time; and
- c. Maintain a Certificate of Approval for the delivery of clinical services in accordance with OAR 309-008-0100 through OAR 309-008-1600; as such rules may be revised from time to time.

3. Reporting Requirements

All Individuals receiving MHS 20 Services with funds provided through this Agreement 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/amh/mots/Pages/resource.aspx>, and the Who Reports in MOTS Policy.

SUBRECIPIENT 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 Agreement.

4. Confirmation of Performance and Reporting Requirements

SUBRECIPIENT shall be required to demonstrate through the data properly reported in accordance with the "Reporting Requirements" section above and any reporting requirement contained in Exhibit A, Scope of Work, of this Agreement, how funds provided for MHS 20 Services were utilized consistent with the terms and limitations herein to meet the performance requirement of this Service Description, and that SUBRECIPIENT may be subject to the monitoring and review of performance requirements and quality measures by OHA.

EXHIBIT J INSURANCE

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

1. **Workers Compensation.** SUBRECIPIENT, its subcontractors, if any, and all employers providing work, labor, or materials under this Agreement 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. SUBRECIPIENT 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 Agreement. The policy must provide extending reporting period coverage for claims made within two years after the Agreement 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 **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees.** It shall include contractual liability coverage for the indemnity provided under this Agreement.

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.** Subrecipient'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 Agreement.

10. **"Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, SUBRECIPIENT 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 Agreement, for a minimum of twenty-four (24) months following the later of: (i) SUBRECIPIENT's completion and COUNTY's acceptance of all Services required under the Provider Agreement; or (ii) the expiration of all warranty periods provided under the Agreement. Notwithstanding the foregoing 24-month requirement, if SUBRECIPIENT 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 SUBRECIPIENT may request and COUNTY may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If COUNTY approval is granted, SUBRECIPIENT shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

11. **Self-insurance.** SUBRECIPIENT may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that Subrecipient'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. SUBRECIPIENT shall furnish an acceptable insurance certificate to COUNTY for any insurance coverage required by this Agreement 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.** Subrecipient shall furnish evidence of the insurance required in this Agreement. SUBRECIPIENT will maintain the insurance in full force throughout the duration of this Agreement. No Agreement 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 which references "Clackamas County Agreement 20-034" in the certificate description. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to COUNTY. SUBRECIPIENT shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

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

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

BHContracts@clackamas.us

Clackamas County Behavioral Health Division
2051 Kaen Road, Suite #154
Oregon City, OR 97045

- 13. Insurance Carrier Rating.** Coverages provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 14. Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the Work performed under this Agreement.
- 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 SUBRECIPIENT or its insurer(s) to 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.** COUNTY will be entitled to enforce SUBRECIPIENT 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 Agreement as permitted by the Agreement, or pursuing legal action to enforce the insurance requirements. In no event shall COUNTY permit a SUBRECIPIENT to work under this Agreement when COUNTY is aware that SUBRECIPIENT is not in compliance with the insurance requirements.

EXHIBIT K QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT ("BAA")

This Qualified Service Organization Business Associate Agreement ("Agreement") is entered into as of **January 1, 2020** ("Effective Date") by and between **Clackamas County, a political subdivision of the State of Oregon, on behalf of its Health, Housing and Human Services, Behavioral Health Division** ("Covered Entity") and **LifeWorks NW** ("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:

- a. 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.
- b. Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- c. 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,
- d. 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 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.
- 7.5 **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.
- 7.6 **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

Covered Entity

LIFEWORKS NW

CLACKAMAS COUNTY



Authorized Signature 10/14/20
Date

Richard Swift, Director Date
Health, Housing and Human Services

Mary Monnat, President/CEO

Name / Title (Printed)

November 5, 2020

Board of Commissioners
Clackamas County

Members of the Board:

Approval of Subrecipient Agreement with Quest Center for Integrative Health
for W.I.S.H. Program Services

Purpose/Outcomes	Provides Wellness, Integrity, and Sustainable Health Pain Management Program (W.I.S.H. Program) services to eligible individuals.
Dollar Amount and Fiscal Impact	Maximum contract value is \$120,000.00.
Funding Source	No County General Funds involved. State of Oregon, Community Mental Health Program (CMHP) funds.
Duration	Effective November 1, 2020 through June 30, 2021.
Previous Board Action	Board reviewed and approved previous agreement February 28, 2019, Agenda Item 022819-A1.
Counsel Review	Reviewed and approved October 8, 2020 (KR)
Procurement Review	Was this item processed through Procurement? No. Not required, as this is a local grant subrecipient agreement.
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.	#9873

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department (H3S) requests the approval of a Subrecipient Agreement with Quest Center for Integrative Health for W.I.S.H. Program services. Quest Center's Wellness, Integrity, and Sustainable Health or W.I.S.H. Program is an integrated medical and behavioral health program designed to treat chronic pain through the use of non-opioid interventions. The Program integrates acupuncture, yoga, mental health, medication management, treatment for substance abuse disorder, nutrition and peer support in a community setting.

The funding provided for Quest Center's W.I.S.H. Program addresses two of the five major priorities identified by the U.S. Department of Health and Human Services in response to the national opioid crisis:

- Improving access to treatment and recovery services, and
- Advancing better practices for pain management.

Healthy Families. Strong Communities.

This Agreement, effective November 1, 2020 through June 30, 2021, has a maximum value of \$120,000.

RECOMMENDATION:

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

Respectfully submitted,

 Rachel Alcock, HHS Deputy Director / FOL

Richard Swift, Director
Health, Housing & Human Services Department

**CLACKAMAS COUNTY, OREGON
LOCAL SUBRECIPIENT GRANT AGREEMENT**

Program Name: ***Wellness, Integrity, and Sustainable Health Pain Management Program (W.I.S.H Program)*** **BH Number: 9873**

Program/Project Number: 36035 – Community Mental Health Program, A&D 66 Services

This Agreement is between **Clackamas County, Oregon**, acting by and through its Health, Housing and Human Services Department, Behavioral Health Division (COUNTY) and **Quest Center for Integrative Health (SUBRECIPIENT)**, an Oregon Non-profit Organization.

COUNTY Data

Grant Accountant: ***Ke`ala Adolpho***

Program Manager: ***Mary Rumbaugh***

Clackamas County – Finance
2051 Kaen Road, Suite #154
Oregon City, OR 97045

Clackamas County Behavioral Health
2051 Kaen Road, Suite #154
Oregon City, OR 97045

503-742-5410

503-742-3505

kadolp@clackamas.us

MaryRum@clackamas.us

SUBRECIPIENT Data

Finance/Fiscal Representative: ***Janet Brandt***

Program Representative: ***David Eisen***

Quest Center for Integrative Health
2901 E Burnside
Portland, OR 97214
503-238-5203
janet@quest-center.org

Quest Center for Integrative Health
2901 E Burnside
Portland, OR 97214
503-238-5203
david@quest-center.org

DUNS: 80-8704506

RECITALS

1. Following two decades that saw a rapid increase in the use of prescription and non-prescription opioids, along with the increase of opioid-related overdose deaths, on October 27, 2017, a national health emergency was declared. The Opioid Crisis or Epidemic, as it has become known is the result of erroneous claims and effective marketing by pharmaceutical companies and the wide availability of opioids.

Opioids, a class of moderately strong to very strong painkillers, are highly addictive. While prescribed opioids are considered safe when used properly for short periods of time, issues of overuse and misuse have increased in the last decade among those utilizing the drug for chronic pain.

- Between 21% and 29% of individuals prescribed opioids for chronic pain misuse them.
- In 2016, an estimated two million Americans suffered from substance use disorders related to the misuse of prescription opioid pain relievers.
- 4% to 6% of individuals who misuse prescription opioids transition to heroin, which is cheaper and more accessible on the black market.
- 80% of heroin users were prescribed opioids at one time.

Quest Center for Integrative Health

Local Grant Agreement – #9873

Page 2 of 38

2. The COUNTY through this Agreement is awarding grant funds to SUBRECIPIENT in support of SUBRECIPIENT'S *Wellness, Integrity, and Sustainable Health Pain Management Program* or *W.I.S.H Program*. The W.I.S.H. Program is an integrated medical and behavioral health program designed to treat chronic pain through the use of non-opioid interventions. The treatment program integrates acupuncture, yoga, mental health, medication management, treatment for substance use disorder, nutrition, and peer support in a community setting.
3. Funding for the W.I.S.H. Program addresses two of the five major priorities identified by the U.S. Department of Health and Human Services in response to the national opioid crisis:
 - Improving access to treatment and recovery services, and
 - Advancing better practices for pain management.
4. This Grant Agreement of financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

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

AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse SUBRECIPIENT for expenses approved in writing by COUNTY relating to the project incurred no earlier than **November 1, 2020** and not later than **June 30, 2021**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in **Exhibit A, Scope of Work**. SUBRECIPIENT agrees to perform the Program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Community Mental Health Program ("CMHP") Intergovernmental Agreement that is the source of the grant funding. SUBRECIPIENT shall further comply with any requirements required by Oregon Health Authority ("OHA"), together with any and all terms, conditions, and other obligations as may be required by the applicable local or State agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State funding requirements.
4. **Grant Funds.** COUNTY'S funding for this Agreement is the **Community Mental Health Program Intergovernmental Agreement** issued to COUNTY by the OHA. The maximum, not to exceed, grant amount COUNTY will pay is **\$120,000.00**.
5. **Disbursements.** Disbursements will be made according to the following schedule:
 - \$120,000.00 to be paid at a case rate amount through monthly invoicing. See **Exhibit B, Compensation** for further detail.

Failure to comply with the terms of this Agreement may result in withholding of payment.

6. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment.
7. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other. This notice may be transmitted in person, by mail, facsimile, or by email, with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed.
8. **Effect of Termination.** The expiration or termination of this Agreement, for any reason, shall not release SUBRECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:
 - a. Has already accrued hereunder;
 - b. Comes into effect due to the expiration or termination of the Agreement; or
 - c. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement, SUBRECIPIENT shall promptly identify all unexpended funds and return all unexpended funds to COUNTY. Unexpended funds are those funds received by SUBRECIPIENT under this Agreement that (i) have not been spent or expended in accordance with the terms of this Agreement; and (ii) are not required to pay allowable costs or expenses that will become due and payable as a result of the termination of this Agreement.

9. **Funds Available and Authorized.** COUNTY certifies that it has been awarded funds sufficient to finance the costs of this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
10. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this Agreement.
11. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a SUBRECIPIENT, and accepts among its duties and responsibilities the following:
 - a) **Financial Management.** SUBRECIPIENT shall comply with Generally Accepted Accounting Principles ("GAAP") or another equally accepted basis of accounting, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
 - b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or "deferred" until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are "earned". All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to COUNTY within 15 days.
 - c) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the **Exhibit B, Compensation.** SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of COUNTY. At no time may budget modifications change

Quest Center for Integrative Health

Local Grant Agreement – #9873

Page 4 of 38

- the scope of the original grant application or agreement.
- d) **Allowable Uses of Funds.** SUBRECIPIENT shall use funds only for those purposes authorized in this Agreement.
 - e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the term and effective date. Cost incurred prior or after this date will be disallowed.
 - f) **Match.** Matching funds are not required for this Agreement.
 - g) **Payment.** Routine requests for reimbursement should be submitted monthly using the instructions in **Exhibit B, Compensation.**
 - h) **Performance Reporting.** SUBRECIPIENT must submit Performance Reports according to the schedule specified in **Exhibit A, Scope of Work.** All reports must be submitted on SUBRECIPIENT letterhead, must reference this Agreement number, and be signed and dated by an authorized official of SUBRECIPIENT.
 - i) **Lobbying.** See **Exhibit E, CMHP Required Federal Terms & Conditions, Section 5.**
 - j) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed by State and Federal law.
 - k) **Monitoring.** SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring. COUNTY, OHA, the Secretary of the State of Oregon, and their duly authorized representatives shall have access to such records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts, copies and transcripts. Monitoring may be performed onsite or offsite, at COUNTY'S discretion.
 - l) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years following the Project End Date (June 30, 2021), or such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.
 - m) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original contract and this Agreement. Such material breach shall give rise to COUNTY'S right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, or to terminate this relationship including the original contract and all associated amendments.

12. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam

Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and as applicable to SUBRECIPIENT.

- b) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to this Agreement.
- c) **Conflict Resolution.** If conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Agreement, SUBRECIPIENT shall in writing request COUNTY resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under this Agreement.

13. State Procurement Standards

- a) COUNTY'S performance under this Agreement is conditioned upon SUBRECIPIENT'S compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Local Contract Review Board ("LCRB") regulations (Appendix C of Clackamas County Code, located at <http://www.clackamas.us/code/>), which are incorporated by reference herein.
- b) Procurements for goods and services under this award shall use processes as outlined below:

\$0-\$5,000	Direct procurement	One vendor contact
\$5,000-\$50,000	Intermediate procurement	Obtain & document three quotes, award on best value
\$50,000-\$150,000	Intermediate Plus procurement	Issue request for quotes or other appropriate form of solicitation, award on best value
\$150,000+	Formal	Formal solicitation process following written procurement policies

- c) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements in excess of \$5,000 must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement in excess of \$5,000 should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Intergovernmental agreements are excluded from this provision.
- d) SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. SUBRECIPIENT shall follow chapter 244 of the Oregon Government Ethics Law relating to conflicts of interest. Contractors that develop or draft specifications, requirements, statements of work, and/or solicitations for proposals for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- e) SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, SUBRECIPIENT shall use small, minority-owned, and/or women-owned businesses when possible.

14. General Agreement Provisions.

- a) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT'S negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT'S control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT'S actions, employees, agents or otherwise with respect to those under its control.
- b) **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance required in **Exhibit C, Insurance.**
- c) **Assignment.** SUBRECIPIENT shall not enter into any subcontracts or subawards for any of the Program activities required by this Agreement without prior written approval. This Agreement may not be assigned in whole or in part without the express written approval of COUNTY.
- d) **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
- e) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- f) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- g) **Abuse Reporting.** SUBRECIPIENT shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 943-045-0250 through 943-045-0370) and elder abuse reporting laws (ORS 124.050 – 124.092) as if SUBRECIPIENT were a mandatory abuse reporter. If SUBRECIPIENT is not a mandatory reporter by statute, these reporting requirements shall apply during work hours only. SUBRECIPIENT shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, a mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.
- h) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- i) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same agreement. Facsimile copy or electronic signatures

shall be valid as original signatures.

- j) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- k) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- l) **Integration.** This Agreement contains the entire agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or agreements.

This Agreement consists of thirteen (13) sections plus the following exhibits by this reference is incorporated herein.

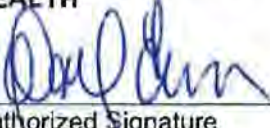
- Exhibit A Scope of Work
- Exhibit B Compensation
- Exhibit C Insurance
- Exhibit D CMHP Required Provider Agreement Provisions
- Exhibit E CMHP Required Federal Terms and Conditions
- Exhibit F CMHP Service Element
- Exhibit G Qualified Service Organization Business Associate Agreement

(Signature Page Attached)

SIGNATURE PAGE TO SUBRECIPIENT AGREEMENT

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

QUEST CENTER FOR INTEGRATIVE HEALTH



Authorized Signature

Printed Name

DAVID EISEN

Date

10/14/20

353246-80

Oregon Business Registry #

Domestic Nonprofit Corporation / Oregon
Entity Type / State of Formation

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Commissioner: Jim Bernard, Chair
Commissioner: Sonya Fischer
Commissioner: Ken Humberston
Commissioner: Paul Savas
Commissioner: Martha Schrader

Signing on behalf of the Board:

Rod Cook, Assistant Director Date
Health, Housing and Human Services

Approved as to form:

Kathleen Rastetter via email 10/08/2020
County Counsel Date

**EXHIBIT A
SCOPE OF WORK**

Background

Quest Center for Integrative Health's mission is to "provide integrative healthcare services, education and inclusive community support to people seeking a wellness-focused approach to full living". COUNTY is providing funds to support Quest Center's Wellness, Integrity, and Sustainable Health Pain Management Program or W.I.S.H. Program. The W.I.S.H. Program is an integrated medical and behavioral health program designed to treat chronic pain through the use of non-opioid interventions. The treatment program integrates acupuncture, yoga, mental health, medication management, treatment for substance abuse disorder, nutrition, and peer support in a community setting.

Statement of Work

SUBRECIPIENT shall:

- Provide W.I.S.H. Program Services with the goal of increasing individuals' quality of life
- Provide Program Services to individuals who are uninsured or under insured, to include, but not limited to:
 - Individuals whose insurance coverage does not cover these benefits
 - Individuals who do not have access to insurance, either due to inability to verify citizenship or because they cannot afford insurance
 - Individuals who are insured through Medicare
- Provide Services to up to up ten (10) unique individuals each month.
- Work collaboratively with individuals' primary care physicians to ensure program is tailored to address pain management needs.
- Submit encounter data to COUNTY'S Third Party Administrator, Performance Health Technologies, LTD.

Reporting Requirements

SUBRECIPIENT shall submit reports to include the following:

- Total number of individuals served
- % of individuals that reported less pain, on average
- % of individuals that reported an increased ability to do normal work
- % of individuals that reported a better mood
- % of individuals that reported they are sleeping better

SUBRECIPIENT shall provide reports according to the following schedule:

Report Due	Reporting Period
February 15, 2021	November 1, 2020 – December 31, 2020
August 15, 2021	January 1, 2021 – June 30, 2021

**EXHIBIT B
COMPENSATION**

- a. Payment for all Work performed under this Agreement shall be subject to the provisions of ORS 293.462 and shall not exceed the total maximum sum of **\$120,000.00**.

SUBRECIPIENT shall be compensated at the **rate of \$1,500.00 per month per client**, up to ten (10) clients. Monthly invoicing shall not exceed \$15,000.00.

- b. SUBRECIPIENT will submit **monthly invoices by the 10th day of the month** following the month Services were provided.

All invoices and supporting documentation shall be sent by email or mail to:

BHAP@clackamas.us

Clackamas County Behavioral Health Division
Accounts Payable
2051 Kaen Road, Suite #154
Oregon City, Oregon 97045

When submitting electronically, designate SUBRECIPIENT name and Agreement #9873 in the subject of the email.

- c. Payments shall be made to SUBRECIPIENT, within thirty (30) days, following the COUNTY'S review and approval of invoices submitted by SUBRECIPIENT. SUBRECIPIENT 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 Agreement, the amendment must be fully effective before SUBRECIPIENT performs Work subject to the amendment.

**EXHIBIT C
INSURANCE**

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

1. **Workers Compensation.** SUBRECIPIENT, its subcontractors, if any, and all employers providing work, labor, or materials under this Agreement 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. SUBRECIPIENTS 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 Agreement. The policy must provide extending reporting period coverage for claims made within two years after the Agreement 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 Agreement.

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.** SUBRECIPIENT'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 Agreement.

10. **"Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the SUBRECIPIENT 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 Agreement, for a minimum of twenty-four (24) months following the later of: (i) the SUBRECIPIENT'S completion and COUNTY'S acceptance of all Services required under the Provider Agreement; or (ii) the expiration of all warranty periods provided under the Agreement. Notwithstanding the foregoing 24-month requirement, if the SUBRECIPIENT 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 SUBRECIPIENT may request and COUNTY may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If COUNTY approval is granted, the SUBRECIPIENT shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

11. **Self-insurance.** SUBRECIPIENT may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that SUBRECIPIENT'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. SUBRECIPIENT shall furnish an acceptable insurance certificate to COUNTY for any insurance coverage required by this Agreement 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.** SUBRECIPIENT shall furnish evidence of the insurance required in this Agreement. SUBRECIPIENT will maintain the insurance in full force throughout the duration of this Agreement. No Agreement 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 Agreement. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the COUNTY. The SUBRECIPIENT 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 SUBRECIPIENT 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.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the Work performed under this Agreement.
- 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 SUBRECIPIENT 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 SUBRECIPIENT 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 Agreement as permitted by the Agreement, or pursuing legal action to enforce the insurance requirements. In no event shall COUNTY permit a SUBRECIPIENT to work under this Agreement when the COUNTY is aware that the SUBRECIPIENT is not in compliance with the insurance requirements.

EXHIBIT D
CMHP REQUIRED PROVIDER SUBRECIPIENT AGREEMENT PROVISIONS

1. **Expenditure of Funds.** SUBRECIPIENT may expend the funds paid to SUBRECIPIENT under this Agreement solely on the delivery of contracted services subject to the following limitations (in addition to any other restrictions or limitations imposed by this AGREEMENT):
 - a) SUBRECIPIENT may not expend on the delivery of Services any funds paid to SUBRECIPIENT under this Agreement in excess of the amount reasonable and necessary to provide quality delivery of these Services.
 - b) If this Agreement requires SUBRECIPIENT to deliver more than one service, SUBRECIPIENT may not expend funds paid to SUBRECIPIENT under this Agreement for a particular service on the delivery of any other service.
 - c) If this Agreement requires SUBRECIPIENT to deliver Addiction Treatment, Recovery & Prevention, and Problem Gambling Services, SUBRECIPIENT may not use the funds paid to SUBRECIPIENT under this Agreement 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 Agreement 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 Agreement 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) SUBRECIPIENT may expend funds paid to SUBRECIPIENT under this Agreement only in accordance with OMB Circulars or 45 CFR Part 75, as applicable on Allowable Costs. If SUBRECIPIENT 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 SUBRECIPIENT 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. SUBRECIPIENT, if subject to this requirement, shall at SUBRECIPIENT'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 Agreement 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 Agreement. 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. SUBRECIPIENT may not use the funds received under this Agreement 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 SUBRECIPIENT that are directly related to this Agreement, the funds paid to SUBRECIPIENT hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, SUBRECIPIENT shall permit authorized representatives of COUNTY and the Oregon Health Authority to perform site reviews of all services delivered by SUBRECIPIENT hereunder.

- b) **Retention of Records.** SUBRECIPIENT shall retain and keep accessible all books, documents, papers, and records, that are directly related to this Agreement, the funds paid to SUBRECIPIENT 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 Agreement or applicable law, following the termination or expiration of this Agreement. If there are unresolved audit or other questions at the end of the six-year period, SUBRECIPIENT shall retain the records until the questions are resolved.
- c) **Expenditure Records.** SUBRECIPIENT shall document the expenditure of all funds paid to SUBRECIPIENT under this Agreement. Unless applicable federal law requires SUBRECIPIENT to utilize a different accounting system, SUBRECIPIENT 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 SUBRECIPIENT under this Agreement were expended.
- d) **Client Records.** Unless otherwise specified in this Agreement, SUBRECIPIENT shall create and maintain a client record for each client who receives services under this Agreement. 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.

SUBRECIPIENT 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 Agreement.

- e) **Safeguarding of Client Information.** SUBRECIPIENT 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 SUBRECIPIENT by COUNTY or by the Oregon Health Authority. SUBRECIPIENT 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 Agreement 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 follows:

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 there are any questions, contact MOTS Support at MOTS.Support@state.or.us.

3. Alternative Formats of Written Materials. In connection with the delivery of Services, SUBRECIPIENT 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 SUBRECIPIENT.
- 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 SUBRECIPIENT.
- 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 SUBRECIPIENT.
- 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 SUBRECIPIENT contracts related to this Agreement. 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.** SUBRECIPIENT shall prepare and furnish the following information to COUNTY and the Oregon Health Authority when a service is delivered under this Agreement:
 - 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.** SUBRECIPIENT shall comply with all state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the delivery of services hereunder. Without limiting the generality of the foregoing, SUBRECIPIENT expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement:
 - 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 Agreement.

These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including SUBRECIPIENT, 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, SUBRECIPIENT shall comply, as if it were COUNTY thereunder, with the federal requirements set forth in **Exhibit F, Required Federal Terms and Conditions**, to the certain 2019-2021 Intergovernmental Contract for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services between COUNTY and the Oregon Health Authority dated as of July 1, 2019, which Exhibit is incorporated herein by this reference. For purposes of this Agreement, all references in this Agreement to federal and state laws are references to federal and state laws as they may be amended from time to time.

6. Unless SUBRECIPIENT is a State of Oregon governmental agency, SUBRECIPIENT 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, SUBRECIPIENT 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

Quest Center for Integrative Health

Local Grant Agreement – #9873

Page 18 of 38

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 SUBRECIPIENT, including but not limited to the activities of SUBRECIPIENT or its officers, employees, subcontractors or agents under this Agreement.

8. SUBRECIPIENT understands that SUBRECIPIENT 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. SUBRECIPIENT 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 Agreement.
10. SUBRECIPIENT(S) that are not units of local government as defined in ORS 190.003 shall obtain, at SUBRECIPIENT'S expense, and maintain in effect with respect to all occurrences taking place during the term of the Agreement, insurance requirements as defined in this Agreement and incorporated herein by this reference (**Exhibit C, Insurance**).
11. SUBRECIPIENT(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 SUBRECIPIENT or any of the officers, agents, employees or subcontractors of the SUBRECIPIENT (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 SUBRECIPIENT from and against any and all Claims.
12. SUBRECIPIENT shall include sections 1 through 11, in substantially the form set forth above, in all permitted SUBRECIPIENT contracts under this Agreement.
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 SUBRECIPIENT in connection with the Services. With respect to that portion of the intellectual property that the SUBRECIPIENT owns, SUBRECIPIENT grants to OHA and the COUNTY a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to: (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property; (2) authorize third parties to exercise the rights set forth in Section 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 SUBRECIPIENT 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 SUBRECIPIENT in connection with the Services, OHA will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to SUBRECIPIENT to use, copy, distribute, display, build upon and improve the intellectual property.

EXHIBIT E
CMHP REQUIRED FEDERAL TERMS AND CONDITIONS

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

1. **Miscellaneous Federal Provisions.** SUBRECIPIENTS shall comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Services. Without limiting the generality of the foregoing, SUBRECIPIENT expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Services in violation of 42 U.S.C. 14402.
2. **Equal Employment Opportunity.** SUBRECIPIENT 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 Agreement, including amendments, exceeds \$150,000 SUBRECIPIENT 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. SUBRECIPIENTS 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.** SUBRECIPIENT 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 Agreement, SUBRECIPIENT certifies, to the best of the SUBRECIPIENT'S knowledge and belief that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of SUBRECIPIENT, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the

- entering into of any cooperative 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 SUBRECIPIENT shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - c. SUBRECIPIENT 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 Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - e. No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
 - f. No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
 - g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
 - h. No part of any federal funds paid to SUBRECIPIENT under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

6. **Resource Conservation and Recovery.** SUBRECIPIENT 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 SUBRECIPIENT 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 SUBRECIPIENT 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.** SUBRECIPIENT 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.** SUBRECIPIENT shall comply with the following provisions to maintain a drug-free workplace: (i) SUBRECIPIENT certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in SUBRECIPIENT'S workplace or while providing Services to OHA clients. SUBRECIPIENT'S notice shall specify the actions that will be taken by SUBRECIPIENT against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, SUBRECIPIENT'S policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of Services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) 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 SUBRECIPIENT, or any of SUBRECIPIENT'S employees, officers, agents may provide any Service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the SUBRECIPIENT or SUBRECIPIENT'S employee, officer, agent has used a controlled substance, prescription or non-prescription medication that impairs the SUBRECIPIENT or SUBRECIPIENT'S employee, officer, agent or SUBRECIPIENT'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

Quest Center for Integrative Health

Local Grant Agreement – #9873

Page 22 of 38

activities; and (x) Violation of any provision of this subsection may result in termination of this Agreement.

10. **Pro-Children Act.** SUBRECIPIENT 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 SUBRECIPIENT provides any Service in which costs are paid in whole or in part by Medicaid, SUBRECIPIENT shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
 - a. Keep such records as are necessary to fully disclose the extent of the services provided to Individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a (a)(27); 42 CFR 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. SUBRECIPIENT shall acknowledge SUBRECIPIENT'S understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e. Entities receiving \$5 million or more annually (under this SUBRECIPIENT 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.** SUBRECIPIENT 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, SUBRECIPIENT shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an Individual may apply for or receive an application for public assistance.
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 Addiction Treatment, Recovery & Prevention Services for Agencies receiving Substance Abuse Prevention and Treatment (SAPT) Block Grant funds.

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 SUBRECIPIENT provides A&D 61 and A&D 62 Services, SUBRECIPIENT 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 SUBRECIPIENT provides any Addiction Treatment, Recovery & Prevention Services other than A&D 84, Problem Gambling, Client Finding Outreach Services, SUBRECIPIENT 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

Quest Center for Integrative Health

Local Grant Agreement – #9873

Page 24 of 38

- treatment, who seek or are referred for and would benefit from such Services, within 48 hours;
- (2) If SUBRECIPIENT has insufficient capacity to provide treatment Services to a pregnant woman, SUBRECIPIENT 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 SUBRECIPIENT 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 SUBRECIPIENT receives a request for admission to treatment from an intravenous drug abuser, SUBRECIPIENT 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 SUBRECIPIENT 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 SUBRECIPIENT 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 SUBRECIPIENT 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 SUBRECIPIENT provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services SUBRECIPIENT 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 SUBRECIPIENT; 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 SUBRECIPIENT 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 SUBRECIPIENT provides any Addiction Treatment, Recovery & Prevention Services other than A&D 84 Problem Gambling, Client Finding Outreach Services, SUBRECIPIENT 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 Addiction Treatment, Recovery & Prevention and Problem Gambling Service delivery to persons referred by OHA.

g. **Barriers to Treatment.** Where there is a barrier to delivery of any Addiction Treatment, Recovery & Prevention and Problem Gambling Service due to culture, gender, language, illiteracy, or disability, SUBRECIPIENT 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.** SUBRECIPIENT 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.** Addiction Treatment, Recovery & Prevention, and Problem Gambling Services funded through this Agreement, 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 SUBRECIPIENT has Addiction Treatment, Recovery & Prevention Services treatment capacity that has been designated for children, adolescents, pregnant women, and women with dependent children, SUBRECIPIENT 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.** SUBRECIPIENT must comply with 42 CFR Part 2 when delivering an Addiction Treatment, Recovery & Prevention Service that includes disclosure of Client information for purposes of eligibility determination. SUBRECIPIENT 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 an Addiction Treatment, Recovery & Prevention Service to that Individual.

16. **Special Federal Requirements Applicable To Addiction Treatment, Recovery & Prevention Services for SUBRECIPIENTS Receiving Temporary Assistance for Needy Families (TANF) Grant Funds.**

Funding Requirements. TANF may only be used for families receiving TANF, and for

families at-risk of receiving TANF, and for the purpose of providing housing services (room and board) for individuals who are dependent children ages 18 years old or younger whose parent is in adult addiction residential treatment, so that the children may reside with their parent in the same treatment facility. Families at-risk of receiving TANF must:

- a. Include a dependent child age 18 years of age or under, who is living with a parent or caretaker relative. "Caretaker relative" means a blood relative of the child; stepmother, stepfather, stepbrother, or stepsister, or an individual who has legally adopted the child.
- b. Be an Oregon resident.
- c. Have income at or below 25% of the Federal Poverty Level.

Use of TANF block grant funds and state expenditures counted towards TANF MOE must meet the requirements of 45 CFR 263. Only non-medical services may be provided with TANF Block Grant Funds.

17. **Community Mental Health Block Grant (CFDA 93.958).** All funds, if any, awarded under this Agreement for Community 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 SUBRECIPIENT shall comply with those restrictions.
18. **Substance Abuse Prevention and Treatment (CFDA 93.959).** To the extent SUBRECIPIENT provides any Service in which costs are paid in whole or in part by the Substance Abuse, Prevention, and Treatment Block Grant, SUBRECIPIENT 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 SUBRECIPIENT provides any substance abuse prevention or treatment services, SUBRECIPIENT shall comply with the confidentiality requirements of 42 CFR Part 2. CMHP may not use the funds received under this Agreement for inherently religious activities, as described in 45 CFR Part 87.
19. **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/hsd/amh/Pages/federal-reporting.aspx>.
20. **Super Circular Requirements.** 2 CFR Part 200, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, including but not limited to the following:
 - a. **Property Standards.** 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.
 - b. **Procurement Standards.** When procuring goods and services (including professional consulting services), applicable state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B, and 279C or 2 CRF §§ 200.318 through 200.326, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, as applicable.
 - c. **Contract Provisions.** The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit, are, to the extent applicable, obligations of SUBRECIPIENT.

**EXHIBIT F
CMHP SERVICE ELEMENT**

A&D 66 – COMMUNITY BEHAVIORAL AND ADDICTION TREATMENT, RECOVERY & PREVENTION SERVICES

1. Service Description

- a. Community Behavioral and Addiction Treatment, Recovery & Prevention Services (A&D 66 Services) are Services delivered to youth and adults with Substance Use Disorders or to youth and adults with co-occurring substance use and mental health disorders. These Services shall be provided to Individuals who are not eligible for the Oregon Health Plan (OHP) or who otherwise do not have a benefit that covers the A&D 66 Services described in this Service Description.

The purpose of A&D 66 Services is to build upon resilience, assist Individuals to make healthier lifestyle choices, and to promote recovery from Substance Use Disorders. A&D 66 Services consist of outreach (case finding), early identification and screening, assessment and diagnosis, initiation and engagement, therapeutic interventions, continuity of care, recovery management, and Interim Services.

- b. It is required that pregnant women receive Interim Services within 48 hours after being placed on a waitlist. At a minimum, 45 CFR §96.121 requires that Interim Services include the following:
 - i. Counseling and education about HIV and tuberculosis (TB);
 - ii. Risk of sharing needles;
 - iii. Risks of transmission to sexual partners and infants;
 - iv. Steps to ensure that HIV and TB transmission does not occur;
 - v. Referral for HIV or TB treatment services, if necessary;
 - vi. Counseling on the effects of alcohol and drug use on the fetus; and
 - vii. Referral for prenatal care.
- c. A&D 66 Services must be evidence-based or promising practices. Services may be reduced commensurate with reductions in funding by COUNTY. SUBRECIPIENT shall provide the following Services, subject to availability of funds:
 - i. Outreach (case finding), early identification and screening, assessment and diagnosis, and education:**
 - 1. **Outreach:** Partner with healthcare Providers and other social service partners who provide screening for the presence of behavioral health conditions to facilitate access to appropriate Services.
 - 2. **Early Identification and Screening:** Conduct periodic and systematic screening that identify Individuals with behavioral health conditions and potential physical health consequences of behavioral health conditions which consider epidemiological and community factors, as identified in the Local Plan or Regional Health Improvement Plan (RHIP) as applicable.

3. **Assessment and Diagnosis:** Perform multidimensional, biopsychosocial assessments as appropriate based on OAR 309-018-0140 to guide person-centered services and supports planning for behavioral health and co-existing physical health conditions. Identify Individuals who need intensive care coordination. Use the following 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:

i. American Society of Addiction Medicine (ASAM) for Individuals receiving Addiction Treatment, Recovery & Prevention Services.

ii. Level of Care Utilization System (LOCUS) for adults transitioning between the state hospitals, licensed mental health residential services, and Intensive Community Services. "**Intensive Community Services**" are defined as assertive community treatment, intensive case management, and supported or supportive housing.

iii. Level of Service Intensity Determination for children including use of Child and Adolescent Service Intensity Instrument (CASII) and Early Childhood Service Intensity Instrument (ECSII) for children receiving services with "Intensive Outpatient Services and Supports" or "Intensive Treatment Services," as defined in OAR 309-022-0105(43) and 309-022-0105(44), respectively.

4. **Education:** Partner with other community groups and organizations, including but not limited to schools, community corrections, and other related organizations, to perform education and outreach to potentially at-risk populations for alcohol and drug abuse in order to educate those groups around substance abuse treatment and recovery topics tailored to the individual groups' needs, in order to educate the broader community on these issues as well as begin the process of promoting potential initiation and engagement in treatment Services within these populations.

ii. **Initiation and Engagement:** Promote initiation and engagement of Individuals receiving Services and supports, which may include but are not limited to:

1. Brief motivational counseling;
2. Supportive Services to facilitate participation in ongoing treatment; and
3. Withdrawal management for Substance Use Disorders and supportive pharmacotherapy to manage symptoms and adverse consequences of withdrawal following assessment.

iii. **Therapeutic Interventions:**

General community-based Services, which may include:

1. Condition management and a whole person approach to single or multiple chronic conditions based on goals and needs identified by the Individual;
2. General outpatient Services;
3. Medication management for:
 - a. Mental health disorders (when providing Services for Individuals with co-occurring mental and Substance Use Disorders).

by OHA survey to need treatment who are enrolled in A&D 66 Services.

- ii. **Treatment Service Initiation:** Treatment service initiation is measured as the percentage of Individuals served within fourteen (14) calendar days of their original assessment, also known as the index date. The index date is a start date with no Services in the prior sixty (60) days.
- iii. **Utilization:** OHA may measure utilization for Individuals receiving continuum of care services (non-detox).
- iv. **Engagement:** Engagement is measured by OHA as the percentage of Individuals receiving A&D 66 Services under this Agreement who enter treatment following positive assessment.
- v. **Treatment Service Retention:** Treatment Service retention is measured by OHA as the percentage of Individuals receiving A&D 66 Services under this Agreement who are actively engaged in treatment for ninety (90) consecutive days or more.
- vi. **Reduced Use:** Reduced use is measured by OHA as the percentage of Individuals engage in and receiving A&D 66 Services under this Agreement who reduce their use of alcohol or other drugs during treatment, as reported in the MOTA data system, upon planned interruption in Services or ninety (90) day retention, whichever comes first.
- vii. **Completion:** Completion is measured as the percentage of Individuals engaged in and receiving A&D 66 Services under this Agreement who complete two thirds of their treatment plan and are engaged in recovery support or services at the time treatment Services are terminated. Providers of A&D 66 Services funded through this Agreement must participate in client outcome studies conducted by OHA.
- viii. **Facility-Based Care Follow-Up:** Facility-based care follow-up is measured by the percentage of Individuals with a follow-up visit completed with seven (7) calendar days after: (1) hospitalization for mental illness; or (2) any facility-based service defined as residential.
- ix. **Hospital and Facility-based Readmission rates:** Hospital and facility-based readmission rates are measured by the number of Individuals returning to the same or higher levels of care within thirty (30) to one hundred-eighty (180) calendar days against the total number of discharges.
- x. **Parent-Child Reunification:** Parent-child reunification is measured by the number of parents reunited with their child (or multiple children) against the number of parents served who have children in an out-of-home placement or foster care due to the Department of Human Services, Child Welfare Program's involvement.
- xi. **Functional Outcomes – Housing Status; Employment Status; School Performance; Criminal Justice Involvement:** The four (4) functional outcomes measures that will be monitored by OHA:
 1. **Housing Status:** If improved housing status is a goal of treatment or a person is homeless, or in a licensed care facility, this measure will be monitored. This measure is defined as the number of Individuals who improve housing status as indicated by the changed from homelessness or licensed facility-based care to private housing against the total number of Individuals with a goal to improve housing.
 2. **Employment Status:** If employment is a goal of treatment, this measure will be monitored. This measure is defined as the number of Individuals who become employed as indicated by a change in employment status against the number of Individuals with a goal of becoming employed.
 3. **School Performance:** If school attendance is a goal of treatment, this measure will be monitored. This measure is defined as the number of Individuals who improve attendance in school while in active treatment against the total number of Individuals with a goal of improved

attendance in school.

4. Criminal Justice Involvement: This measure will be monitored by OHA for Individuals referred for Services by the justice system. The measure is defined as the number of Individuals who were not arrested after one (1) day or more of active treatment or two (2) consecutive quarters (whichever comes first) against the total number of Individuals referred for Services by the justice system.

3. Reporting Requirements

All Individuals receiving A&D 66 Services with funds provided through this Agreement 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/amh/mots/Pages/resource.aspx>, and the Who Reports in MOTS Policy.

SUBRECIPIENT 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 Agreement.

EXHIBIT G
QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT

This Qualified Service Organization Business Associate Agreement ("Agreement") is entered into upon signature ("Effective Date") by and between **Clackamas County Health, Housing and Human Services, Behavioral Health Division** ("Covered Entity") and **Quest Center for Integrative Health** ("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.

Quest Center for Integrative Health

Local Grant Agreement – #9873

Page 34 of 38

- 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.

Quest Center for Integrative Health

Local Grant Agreement – #9873

Page 36 of 38

- 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.

Quest Center for Integrative Health

Local Grant Agreement – #9873

Page 38 of 38

- 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

Covered Entity

**QUEST CENTER FOR INTEGRATIVE
HEALTH**

**CLACKAMAS COUNTY
BOARD OF COMMISSIONERS**


Authorized Signature

10/03/20
Date

Commissioner: Jim Bernard, Chair
Commissioner: Sonya Fischer
Commissioner: Ken Humberston
Commissioner: Paul Savas
Commissioner: Martha Schrader

DAVID EISEN
Name / Title (Printed)

Signing on behalf of the Board:

353246-80

Oregon Business Registry #

Rod Cook, Assistant Director Date
Health, Housing & Human Services

Domestic Nonprofit Corporation / Oregon
Entity Type / State of Formation

Approved as to form:

Kathleen Rastetter via email 10/08/2020
County Counsel Date

November 5, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for the Public Health Division to apply for the
NACCHO Local Climate and Health Demonstration Site funding opportunity.

Purpose/Outcomes	If awarded, funding will allow Clackamas County Public Health (CCPH), along with public health partners from Multnomah and Washington counties, to update the Regional Climate and Health Benchmark report, add a racial equity lens to the data collected, and develop a communication strategy plan for findings. With the increased occurrence of drought, extreme heat, flooding, and wildfires in Oregon, the need to enhance monitoring methods of observed health outcomes due to climate change is urgent.
Dollar Amount and Fiscal Impact	Maximum grant award is \$24,000. No county general funds are involved. No matching funds required.
Funding Source	National Association of City and County Health Officials
Duration	November 2nd 2020 – June 30th 2021
Previous Board Action	None
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This aligns with Public Health Division strategic goals by enhancing health surveillance and monitoring tools to advance health equity and add a climate change lens to work. 2. This project aligns with County's strategic priority to ensure safe, healthy, and secure communities, by providing data and messaging to support policy lens action areas related to equity, climate neutrality, and healthy and active lifestyles.
Counsel Review	NA
Procurement Review	This item was not processed through Procurement because it is a grant
Contact Person	Sherry Olson, Business Services Manager, 503.742.5342 (Primary) Philip Mason-Joyner, Public Health Division, Director 503.742.5956 (Secondary)
Contract No.	N/A

BACKGROUND:

The Public Health Division of the Health, Housing & Human Services Department, requests the approval to apply for the NACCHO Local Climate and Health Demonstration Site funding opportunity.

In fall of 2019, Multnomah, Washington, and Clackamas counties (tri-county) compiled the Regional Climate and Health Benchmark Report (RCHB Report), which identified and assessed twelve climate-related health indicators and data collection methodologies. This work was presented at the 2019 Northwest Climate Change Conference, used for climate change and health advocacy and presented to legislators in Salem, and showcased in the July 2020 CDC report, *Preparing for the Regional Health Impacts of Climate Change in the United States*.

With the increased occurrence of drought, extreme heat, flooding, and wildfires in Oregon, our need for additional public health assessment work is urgent. The most recent wildfires in Clackamas County underscore this urgency, displacing hundreds of residents and contributing to a regional smoke blanket creating hazardous air quality conditions.

Tri-county partners are seeking funds to update and build upon this work, add new indicators, strengthen statistical and racial analysis, and develop and implement a communication strategy on the data.

Project:

The update of the benchmark report and communication strategy are the primary project goals. Objectives for updating the benchmark report include: (A1) update the twelve existing indicators to monitor change from baselines established in 2019; (A2) identify, develop, and report mental health-related indicators; (A3) conduct statistical analysis on indicators to assess significance of differences between counties and within counties over time; and (A4) disaggregate data by race and other demographic variables to understand disparities and vulnerabilities.

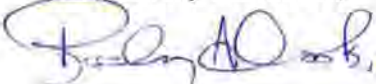
Objectives for developing the communication strategy include: (B1) develop climate and health messaging based on report findings and best practice; (B2) identify and coordinate with other agencies to incorporate health messaging into their climate change and adaptation materials; and (B3) convene a climate, health, and equity session to share report findings.

This project reflects the continued collaborative efforts from each local public health authority in the tri-county region – Multnomah County Health Department (MCHD), Washington County Public Health (WCPH), and Clackamas County Public Health (CCPH). CCPH will act as the project lead and fiscal agent on behalf of the tri-county departments. MCHD and WCPH will contribute content matter expertise, advise on report development, and support data collection and communication strategy implementation as able.

RECOMMENDATION:

Staff recommends the BCC approve CCPH's request to apply for NACCHO Local Climate and Health Demonstration Site funding opportunity.

Respectfully submitted,

 HHS Deputy Director/FOX

Richard Swift, Director
Health, Housing and Human Services

Financial Assistance 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, Public Health Division

Application for: Subrecipient Assistance Direct Assistance
Grant Renewal? Yes No

If renewal, complete sections 1, 2, & 4 only

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

Name of Funding Opportunity:

NACCHO Local Project in Climate Health Demonstration Site

Funding Source: Federal State Local

Requestor Information (Name of staff person initiating form):

Phillip Mason-Joyner

Requestor Contact Information:

503-742-5656

Department Fiscal Representative:

Sherry L. Olson, PH Business Services Manager

Program Name or Number (please specify):

Population Health Strategies

Brief Description of Project:

If awarded, funding will allow the Clackamas County Public Health Division (CCPHD) to update the the Regional Climate and Health Benchmark Report in Coordination with tri-county and state partners. Funds will also be used to integrate a racial equity lens and develop and implement a communication strategy on report findings. The intention of this project is to improve Division surveillance tools for climate-related health impacts to build healthy and safe communities in Clackamas County.

Name of Funding Agency:

NACCHO

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

<https://www.naccho.org/blog/articles/naccho-offers-funding-to-advance-climate-and-health-activities-in-local-health-departments>

OR

Application Packet Attached: Yes No

Completed By:

Abe Moland

Date

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

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

Competitive Application

Non-Competing Application

Other

CFDA(s), if applicable:

NA - local funding

Funding Agency Award Notification Date:

November 2nd, 2020

Announcement Date:

September 8th, 2020

Announcement/Opportunity #:

Grant Category/Title:

Max Award Value:

\$24,000

Allows Indirect/Rate:

Yes

Match Requirement:

N/A

Application Deadline:

October 22nd, 2020

Other Deadlines:

Award Start Date:

November 2nd, 2020

Other Deadline Description:

Award End Date:

June 30th, 2021

Program Income Requirement:

Completed By:

Pre-Application Meeting Schedule:

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

Mission/Purpose:

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

This grant will support H3S's mission to ensure healthy families and strong communities in Clackamas County. Monitoring climate-related health threats, informing the public of climate-related health outcomes, and developing partnerships for climate action are essential public health functions.

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

No, scope falls within local public health authority responsibilities.

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

The purpose of this funding is to supplement ongoing climate change and health adaptation initiatives in local health departments. CCPHD will meet this objective through continued coordination with tri-county partners and OHA Climate and Health program, as well as technical assistance from NAACHO Climate and Health program.

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

No. If awarded, the purpose of the project will be to improve county capacity to monitor and intervene on climate-related health threats.

Organizational Capacity:

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

Yes, qualifications include project management, climate and health content expertise, and racial equity analysis; housed within the PHS team. Statistical expertise will be provided through OHA climate and health staff and NAACHO TA.

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

Yes. Partners include:

- Multnomah County, Environmental Health Department - project guidance and advisory, data provision
- ~~Washington County, Environmental Health Department, project guidance and advisory.~~

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.)?

N/A

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

No.

Collaboration

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

N/A

Reporting Requirements

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

Participate in at least three (3) bi-monthly check-in calls with NACCHO and CDC.
•Submit reimbursement materials during three invoice periods:

Invoice Period 1: 11/2/2020-1/31/2021

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

Performance will be evaluated with a binary yes/no completion of deliverables, attendance at dissemination event, and reflection conversation with coordinating partners.

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

Not specified beyond invoicing date periods. Must complete Organizational Sub Recipient Risk Assessment Form.

Fiscal

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

Yes

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

No.

3. For applications with a match requirement, how much is required (in dollars), and what type of funding will be used to meet it (Cash-CGF, In-kind meaning the value from a 3rd party/non-county entity, Local Grant, etc.)?

N/A

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

Yes, rate cap not specified.

Program Approval:

Sherry L Olson

10/15/20

Sherry L Olson

Digitally signed by Sherry L Olson
Date: 2020.10.15 16:27:22 -07'00'

Name (Typed/Printed)

Date

Signature

**** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR ****

**** ATTACH ALL REQUIRED DOCUMENTS REQUIRING BY THE FUNDING AGENCY. COUNTY PROJECT OR AWARD #11212020 ****

Section IV: Approvals

DIVISION DIRECTOR (or designee, if applicable)		
Philip Mason-Joyner	10/15/2020	Philip Mason-Joyner <small>Digitally signed by Philip Mason-Joyner Date: 2020.10.15 16:34:23 -0700</small>
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR (or designee, if applicable)		
RODNEY A. COOK	10/22/2020	 Rodney A. Cook, PBS Deputy
Name (Typed/Printed)	Date	Signature

FINANCE SENIOR COMPLIANCE SPECIALIST		
Name (Typed/Printed)	Date	Signature

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

Section V: Board of County Commissioners/County Administration

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

For applications less than \$150,000:

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

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

BCC Agenda item #:

Date:

OR

Policy Session Date:

County Administration Attestation

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

November 5, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intra-Agency Agreement with Health Centers Division (CHCD) to reimburse Public Health Division (CCPHD) for client services provide by the Public Health Medical Director at the Health Centers Beaver creek Clinic.

Purpose/Outcomes	Public Health Divisions Medical Director will provide client services at the Health Centers Beaver creek Clinic.
Dollar Amount and Fiscal Impact	No contract maximum, this will be an on-going Agreement for as long as the need exists.
Funding Source	No County General Funds are involved.
Duration	Effective July 1, 2020 and has no termination date
Previous Board Action	No Previous Board Actions
Strategic Plan Alignment	1. Health outcome disparities identified in the Community, Health Improvement Plan will be reduced. 2. Build a strong infrastructure.
Counsel Review	County counsel has reviewed and approved this document on October 14, 2020 – KR
Procurement Review	Was item processed through Procurement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Item is an Intra-Agency Agreement
Contact Person	Philip Mason-Joyner, Public Health Director – (503)742-5956
Contract No.	9879

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of an Intra-Agency Agreement with Health Centers Division (CHCD) to reimburse Public Health Division (CCPHD) for client services provided by the Public Health Medical Director at the Health Centers Beaver creek Clinic.

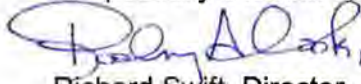
This is an ongoing agreement between PH and HC. The PH Medical director is a FTE permanent employee. For these reasons this Agreement has No Maximum and is effective upon signature and continues until terminated

Page 2 Staff Report
November 05, 2020
Agreement #9879

RECOMMENDATION:

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

Respectfully submitted,

 *Richard Swift, H3S Deputy Director / For*

Richard Swift, Director
Health, Housing, and Human Services

**INTRA-AGENCY AGREEMENT
BETWEEN
CLACKAMAS COUNTY PUBLIC HEALTH DIVISION
AND
CLACKAMAS HEALTH CENTERS DIVISION**

Contract #9879

I. Purpose

This agreement is made between **Clackamas County Public Health Division (CCPHD)** and **Clackamas Health Centers Division (CHCD)**. The parties agree that CCPHD's Public Health Physician will provide services as outlined below. CHCD will compensate CCPHD as outlined in Section III.

II. Scope of Work and Cooperation

A. CCPHD agrees to:

1. Public Health Medical Director to provide services to CHCD Beaver Creek Health Clinic no more than 20 hours per week.

B. CHCD agrees to:

2. Reimburse CCPHD for the services provided by the Public Health Medical Director as outlined in Section III.

III. Compensation

CCPHD will invoice CHCD monthly via interfund transfer request for true and verifiable expenses as posted in WorkForce Software system. The amount billed will be based on salary plus fringe and benefits.

This Agreement has no maximum.

IV. Liaison Responsibility

*Sarah Jacobson will act as liaison from CHCD for this project.
Sherry Olson will act as liaison from CCPHD.*

V. Special Requirements

None

Clackamas Health Centers Division

Intra-Agency Agreement # 9879

Page 2 of 2

VI. Amendments

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

VII. Term of Agreement

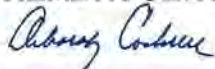
This agreement becomes effective July 1, 2020. This Agreement has no expiration date.

Termination. This contract may be terminated by mutual consent of both parties, or by either party, upon 30 days' notice, in writing and delivered by certified mail or in person.

This agreement consists of seven (7) sections.

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

**CLACKAMAS
HEALTH CENTER DIVISION**



Deborah Cockrell, Director

10/16/2020

Date

**CLACKAMAS COUNTY
PUBLIC HEALTH DIVISION**

Philip Mason-
Joyner

Digitally signed by Philip Mason-
Joyner
Date: 2020.10.19 11:13:43 -07'00'

Philip Mason-Joyner, Director

10/19/2020

Date

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

Richard Swift, Director

Date

November 5, 2020

Board of Commissioners
Clackamas County

Members of the Board:

Approval of a Subrecipient Agreement with Cascadia Behavioral Healthcare, Inc. for
Residential Treatment Services

Purpose/Outcomes	To provide residential treatment services to Clackamas County clients.
Dollar Amount and Fiscal Impact	The contract maximum is \$322,666.
Funding Source	No County General Funds are involved. State of Oregon, Community Mental Health Program (CMHP) funds are utilized.
Duration	Effective July 1, 2019 and terminates on June 30, 2021.
Previous Board Action	Previous Contract #8116 was reviewed and approved September 14, 2017, Agenda Item 071417-A2.
Counsel Review	Review by Counsel September 8, 2020 (AN)
Procurement Review	Was this item reviewed by Procurement? No Not required for subrecipient agreements.
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
Agreement No.	#9390 (#20-036)

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of Subrecipient Agreement with Cascadia Behavioral Healthcare, Inc. for residential treatment services to Clackamas County clients. Cascadia shall provide these services at three facilities in Clackamas County, and will work collaboratively with the County on process including treatment planning, admission and discharge authorizations and referrals for clients to specialty behavioral health services.

Cascadia Behavioral Healthcare, Inc. is a not-for-profit agency that delivers whole health care – integrated mental health and addiction services, primary care, and housing – to promote and support the well-being of the communities served. For more than thirty-five years, Cascadia has been the community health and housing safety net provider for Oregonians of all ages experiencing mental health and addiction challenges, trauma, poverty, and homelessness.

The Agreement, effective July 1, 2019 through June 30, 2021, has a maximum value of \$322,666. County Counsel reviewed this subrecipient agreement September 8, 2020.

This Agreement is retroactive due to changes in the State's coordinated care system and the impact of COVID-19 normal business operations. Cascadia Behavioral Healthcare provided ongoing critical services for Clackamas County clients, ensuring there is no gap in service.

RECOMMENDATION:

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

Respectfully submitted,



Kelly A. Cook, H3S deputy director / FOR

Richard Swift, Director
Health, Housing and Human Services

AGREEMENTS/CONTRACTS

X New Agreement/Contract
 Amendment/Change Order Original Number _____

ORIGINATING COUNTY

**DEPARTMENT: Health, Housing Human Services
Behavioral Health**

PURCHASING FOR: Contracted Services

OTHER PARTY TO

CONTRACT/AGREEMENT: Cascadia Behavioral Healthcare, Inc.^

BOARD AGENDA ITEM

NUMBER/DATE: _____

DATE: _____

PURPOSE OF

CONTRACT/AGREEMENT: Residential Services for Clackamas County Behavioral Health clients residing at Cascadia facilities.

H3S CONTRACT NUMBER: 9390

**CLACKAMAS COUNTY, OREGON
SUBRECIPIENT GRANT AGREEMENT 20-036**

Project Name: **Residential Treatment Services**
Project Number: **08910 Residential Treatment**

Behavioral Health Number: 9390

This Agreement is between **Clackamas County**, Oregon, acting by and through its
Department of Health, Housing and Human Services ("COUNTY"), and
Cascadia Behavioral Healthcare, Inc. ("SUBRECIPIENT"), an Oregon Non-profit Organization.

Clackamas County Data

Grant Accountant: Ke`ala Adolpho	Program Manager: Nancy Benner
Clackamas County – Finance 2051 Kaen Road Oregon City, OR 97045 (503) 742-5410 KAdolpho@clackamas.us	Clackamas County Behavioral Health Division 2051 Kaen Road Oregon City, OR 97045 (503) 742-5960 NBenner@clackamas.us

Subrecipient Data

Finance/Fiscal Representative: Richard Sroka	Contract Representative: Hali Mendez / Risk Mgmt
Cascadia Behavioral Healthcare, Inc. PO Box 8459 Portland, OR 97207 503.238.0769 richard.sroka@cascadiabhc.org	Cascadia Behavioral Healthcare, Inc. PO Box 8459 Portland, OR 97207 503.963.7766 contracts@cascadiabhc.org
DUNS: 057505877	

RECITALS

WHEREAS, COUNTY is a political subdivision of the State of Oregon;

WHEREAS, COUNTY holds an Intergovernmental Agreement ("IGA") for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159) with the State of Oregon acting by and through its Oregon Health Authority ("OHA") for the biennium term of 2019-2021;

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

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

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

WHEREAS, OHA is willing, upon the terms of and conditions of the aforementioned IGA, to provide

financial assistance to COUNTY to operate or contract for the operation of its community addictions and mental health programs;

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

WHEREAS, SUBRECIPIENT is a not-for-profit agency that delivers whole health care – integrated mental health and addiction services, primary care, and housing – to promote hope and support the well-being of the communities served. For more than thirty-five (35) years, SUBRECIPIENT has been the community health and housing safety net provider for Oregonians of all ages experiencing mental health and addiction challenges, trauma, poverty, and homelessness.

THEREFORE, the parties seek to provide a whole health approach to addressing issues of mental health and addiction services to serve Clackamas County residents through this Subrecipient Grant Agreement of federal financial assistance, which sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

According to the terms of this Subrecipient Grant Agreement (this "Agreement") COUNTY and SUBRECIPIENT agree as follows:

AGREEMENT

- 1. Term and Effective Date.** Pursuant to the terms of the grant award, this Agreement shall be effective **July 1, 2019** and shall expire on **June 30, 2021**, unless sooner terminated or extended pursuant to the terms hereof.
- 2. Program.** The Program is described in attached **Exhibit A: Subrecipient Scope of Work**. SUBRECIPIENT agrees to carry out the program in accordance with the terms and conditions of this Agreement.
- 3. Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Community Mental Health Program ("CMHP") IGA 159159 awarded on June 26, 2019, which is/are the source of the grant funding, in addition to compliance with requirements of Title 42 of the *Code of Federal Regulations* ("CFR"), Part 6A, Sub-Part II & III. A copy of the relevant sections of that grant award have been provided to SUBRECIPIENT by COUNTY, which are attached to and made a part of this Agreement by reference. SUBRECIPIENT shall further comply with any and all terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State and Federal funding requirements.
- 4. Grant Funds.** COUNTY's funding for this Agreement is the 2019-2021 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159). The maximum, not to exceed, grant amount COUNTY will pay is **\$322,666.00**. This is a rate-based agreement and disbursements will be made in accordance with the schedule and requirements contained in **Exhibit D: Required Financial**

Reporting and Reimbursement Request and Exhibit E: Performance Measures and Reporting. Failure to comply with the terms of this Agreement may result in withholding of payment. Funding for this Agreement is from the following sources:

- 4.1. **Federal Funds: \$72,000.00** in federal funds are provided through the Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159) (**CFDA 93.958**) issued to COUNTY by the State of Oregon acting by and through its OHA. The State of Oregon receives funds through the Community Mental Health Block Grant from the U.S. Department of Health and Human Services, Office of Substance Abuse and Mental Health Services Administration.
- 4.2. **Other Funds: \$250,666.00** in State funds are provided for funding of other items in the program budget.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty-five (45) calendar days before this Agreement expires. No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement except for the final payment. The final request for payment must be submitted to COUNTY no later than ten (10) days after the end date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.
6. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other upon thirty (30) business days-notice. This notice may be transmitted in person, by certified mail, facsimile, or by email.
7. **Funds Available and Authorized.** COUNTY certifies that funds sufficient to pay for this Agreement have been obligated to COUNTY. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
8. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 7.
9. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
 - a) **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
 - b) **Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within 30 days of becoming aware of the likely or actual changes and a statement of whether or not SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
 - c) **Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a

direct or indirect basis. Costs disallowed by the Federal Government shall be the liability of SUBRECIPIENT.

- d) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- e) **Match.** Matching funds are not required for this Agreement.
- f) **Budget.** SUBRECIPIENT's use of funds may not exceed the amounts specified in the **Exhibit B: Subrecipient Program Budget.** SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.
- g) **Indirect Cost Recovery.** Indirect cost recovery is not available on this award.
- h) **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.
- i) **Payment.** SUBRECIPIENT must submit a final request for payment **no later than ten (10) days after the end date of this Agreement.** Routine requests for reimbursement should be submitted as specified in **Exhibit D: Required Financial Reporting and Reimbursement Request.**
- j) **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in **Exhibit E: Reporting** for each period (monthly, quarterly, and final) during the term of this Agreement.
- k) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or SUBRECIPIENT, in accordance with Treasurer Regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed **Exhibit D: Required Financial Reporting and Reimbursement Request** on a monthly basis.
- l) **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.343—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (**Exhibits D & F**), performance (**Exhibit E**), and other reports as required by the terms and conditions of the federal award and/or COUNTY, no later than 90 calendar days after the end date of this agreement.
- m) **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number using the Data Universal Numbering System (DUNS) as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, now located at <http://www.sam.gov>.
- n) **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <https://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties

declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

- o) **Lobbying.** SUBRECIPIENT certifies (**Exhibit C: Lobbying**) no portion of the federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U. S. C. 1352. In addition, SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- p) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. SUBRECIPIENTS of federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse ("FAC") within 9 months from SUBRECIPIENT's fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from SUBRECIPIENT's fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- q) **Monitoring.** SUBRECIPIENT agrees to allow COUNTY and the Oregon Health Authority access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring in accordance with 2 CFR 200.331. COUNTY, OHA, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY's discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.
- r) **Specific Conditions.** None
- s) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337.
- t) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services Agreement No. 159159, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the Clackamas County, as grantee, under those grant documents.

- u) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by SUBRECIPIENT in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to COUNTY at law, in equity, or under this Agreement.

10. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal Government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse; and (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT. Additional requirements are as specified in 45 CFR Part 96; also portions of the 2 CRF Part 200/45 CFR Part 75. No federal funds may be used to provide services in violation of 42 U.S.C. 14402.
- b) **Rights to Inventions Made Under a Contract or Agreement.** SUBRECIPIENT agrees that contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.
- c) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this Agreement is in excess of \$150,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. SUBRECIPIENT shall include and require all Providers to include in all contracts with subcontractors receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.
- d) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- e) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request COUNTY to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) creates a problem

for the design or delivery of other Services required under the Agreement. COUNTY shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.

- f) **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- g) **Mileage reimbursement.** If mileage reimbursement is authorized in SUBRECIPIENT budget or by the written approval of COUNTY, mileage must be paid at the rate established by SUBRECIPIENT'S written policies covering all organizational mileage reimbursement or at the IRS mileage rate at the time of travel, whichever is lowest.
- h) **Human Trafficking.** In accordance with 2 CFR Part 175, SUBRECIPIENT, its employees, contractors and subrecipients under this Agreement and their respective employees may not:
 - 1) Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
 - 2) Procure a commercial sex act during the period of time the award is in effect; or
 - 3) Used forced labor in the performance of the Agreement or subaward under this Agreement, as such terms are defined in such regulation.

SUBRECIPIENT must inform COUNTY immediately of any information SUBRECIPIENT receives from any source alleging a violation of any of the above prohibitions in the terms of this Agreement. COUNTY may terminate this Agreement, without penalty, for violation of these provisions. COUNTY's right to terminate this Agreement unilaterally, without penalty, is in addition to all other remedies under this Agreement. SUBRECIPIENT must include these requirements in any subaward made to public or private entities under this Agreement.

11. Federal and State Procurement Standards

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
- b) COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, as they pertain to the purchase of goods and services under this Agreement and which are incorporated by reference herein.
- c) SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a

state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals (“RFP”) for a proposed procurement must be excluded by SUBRECIPIENT from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.

- d) SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

12. General Agreement Provisions.

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY’s next fiscal year, COUNTY’s obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its elected officials, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney’s and expert fees) arising from or related to SUBRECIPIENT’s negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT’s control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT’s actions, employees, agents or otherwise with respect to those under its control.

To the extent permitted by applicable law, SUBRECIPIENT 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, the Oregon Health Authority, 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 SUBRECIPIENT, including but not limited to the activities of SUBRECIPIENT or its officers, employees, subcontractors or agents under this AGREEMENT.

Subrecipients 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 (“Indemnatee”) 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 SUBRECIPIENT or any of the officers, agents, employees or subcontractors of SUBRECIPIENT (“Claims”). It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by SUBRECIPIENT from and against any and all Claims.

- c) **Insurance.** COUNTY shall enforce SUBRECIPIENT compliance with the insurance requirements outlined herein, and shall take all reasonable steps to enforce such compliance. Examples of reasonable steps include issuing stop work orders until the insurance is in full force, terminating this Agreement, as permitted herein, or pursuing legal action to enforce such requirements. During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance required in **Exhibit J: Insurance**.

- d) **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
- e) **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
- f) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- g) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- h) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- i) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- j) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- k) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- l) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

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

- Exhibit A Subrecipient Scope of Work
- Exhibit B Subrecipient Program Budget
- Exhibit C Lobbying Certificate
- Exhibit D Required Financial Reporting and Reimbursement Request

- Exhibit E Performance Reporting
- Exhibit F Final Financial Report
- Exhibit G CMHP Required Federal Terms and Conditions
- Exhibit H CMHP Required Provider Agreement Provisions
- Exhibit I CMHP Service Elements
- Exhibit J Insurance
- Exhibit K Business Associate Agreement

(Signature Page Follows)

EXHIBIT A SUBRECIPIENT SCOPE OF WORK

PROJECT NAME: Residential Treatment Services (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	AGREEMENT No. 20-036
SUBRECIPIENT: Cascadia Behavioral Healthcare, Inc.	

SUBRECIPIENT shall provide the following Services, including the service descriptions, reporting requirements, and performance requirement. Services provided are to be within the scope of SUBRECIPIENT's licenses and certification, and the licenses, certifications, and training of its employed and contracted staff providing direct services under this Agreement.

1. Facilities providing Residential Treatment Services

- Leland (18980 S Leland Rd., Oregon City, OR 97045)
- Pearl (304 Pearl St., Oregon City, OR 97045)
- Portland Avenue (1035 Portland Ave., Gladstone, OR 97027)

2. Level of Care; Admission, Continued Stay and Discharge Criteria

SUBRECIPIENT shall administer, or cooperate with COUNTY in the administration of, the Level of the Level of Care Utilization System ("LOCUS") instrument to assist with treatment planning. SUBRECIPIENT shall maintain the LOCUS as part of the Client record and shall make such records available to COUNTY upon request.

SUBRECIPIENT shall participate in COUNTY admission, continued stay and discharge authorization process, as outlined in COUNTY practice guidelines. SUBRECIPIENT understands that authorization for services will be based upon this review process.

3. Coordination of Care

- A. SUBRECIPIENT shall provide coordination and integration of services with physical health care providers and chemical dependency providers as medically appropriate and within the laws governing confidentiality.
- B. SUBRECIPIENT shall coordinate with COUNTY on referral of clients to specialty behavioral health services or to a higher intensity of service. Specifically:
 - i. SUBRECIPIENT shall coordinate with COUNTY on both the admission and discharge of clients to psychiatric acute care or sub-acute psychiatric care.
 - ii. SUBRECIPIENT shall coordinate with COUNTY on referral of clients to crisis respite services, particularly as those services are used to divert the admission of the Client to acute care.
 - iii. SUBRECIPIENT shall coordinate with COUNTY to obtain Long Term Care Determination for appropriate clients.
- C. SUBRECIPIENT shall participate in Client staffing with COUNTY and Oregon Health Authority ("OHA") on a regular, scheduled or ad hoc basis in order to ensure most appropriate care.

4. Standards of Care

COUNTY promotes resilience in and recovery of the clients it serves. COUNTY supports a system of care that promotes and sustains a Client's recovery from a mental health condition by

identifying and building upon the strengths and competencies within the person to assist them in achieving a meaningful life within their community. Consistent with these values and pursuant to residential licensing standards under Chapter 309, Division 0350 of the Oregon Administrative Rules, Subrecipient shall:

- A. Provide services in a manner that assures continuity and coordination of the health care services provided to each client;
- B. Comply with the following timelines upon receipt of a referral:
 - i. Contact the referent within **two (2) business days** with decision of whether to screen the referred Client;
 - ii. Conduct screening within **five (5) business days** from receipt of referral; and
 - iii. Determine whether to accept the referral, and complete the referral cover sheet and return it to the referent with **two (2) business days** of the screening.
- C. Not discriminate against clients because of source of income, race, color, national origin, religion, creed, marital status, sex or sexual orientation (except as may be limited by room arrangement), age (except under eighteen (18) years), familial status, or disability in addition to the mental or emotional disorder;
- D. Practice and treat all clients using that degree of care, skill and diligence which is used by ordinarily careful providers in the same or similar circumstances in the provider's community or a similar community (see ORS 677.095);
- E. Ensure that clients are served in the most normative, least restrictive, least intrusive and most cost effective level of care appropriate to their diagnosis and current symptoms, degree of impairment, level of functioning, treatment history, and extent of family and community supports;
- F. Assure that an adequate number of staff are available at all times to meet the treatment, health and safety needs of clients;
- G. Advise or advocate on behalf of clients in regard to treatment options, without restraint from COUNTY;
- H. Provide clients with access to services without undue delay and as soon as necessary in light of the member's mental health condition;
- I. Ensure that all personnel providing services to clients under this Agreement are properly trained and qualified to render the services they provide. SUBRECIPIENT shall arrange for continuing education of personnel rendering services under this Agreement as necessary to maintain such competence and satisfy all applicable licensing, certification or other regulatory requirements; and
- J. Maintain facilities and equipment appropriate for provision of services to clients of a type and quality consistent with administrative rules promulgated by the State of Oregon Department of Human Services and the Americans with Disabilities Act.

5. SUBRECIPIENT Performance and Reporting

SUBRECIPIENT shall comply with all performance and reporting requirements found in **Exhibit E: Reporting** and **Exhibit I: CMHP Service Elements**.

**EXHIBIT B
 SUBRECIPIENT PROGRAM BUDGET**

PROJECT NAME: Residential Treatment Services (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	AGREEMENT No. 20-036
SUBRECIPIENT: Cascadia Behavioral Healthcare, Inc.	

BUDGET

SERVICE ELEMENT	NOT TO EXCEED VALUE
MHS 20 – Federal Funds	\$72,000.00
MHS 28 – State Funds	\$250,666.00
TOTAL	\$322,666.00

EXHIBIT D
REQUIRED FINANCIAL REPORTING AND REIMBURSEMENT REQUEST

PROJECT NAME: Residential Treatment Services (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	AGREEMENT No. 20-036
SUBRECIPIENT: Cascadia Behavioral Healthcare, Inc.	

1. SUBRECIPIENT will submit a monthly Request for Reimbursement referencing grant agreement number 20-036 and contract #9390.
2. Requests for reimbursement shall be submitted by the **10th of the month** for the previous month. The final request for reimbursement shall be submitted by July 10, 2021 for June 30, 2021 expenses.
3. Reimbursements shall be based on current authorized State rates for Room & Board, Personal Incidental Fund ("PIF"), and Tier payments, which may be amended from time to time, or pre-approved additional expenses for Clackamas County clients residing at Subrecipient facility. Reimbursements shall not exceed total identified in **Exhibit B: Subrecipient Program Budget** of this Agreement. Supporting documentation must be retained for expenses for which reimbursement is claimed and for all expenses reported. Documentation required includes personal service cost detail, services and supplies cost detail, copies of paid contract and equipment invoices and receipts for lodging, airfare, car rental and conference registration, where applicable. This documentation should be readily available for review upon request or site visit by COUNTY, State of Oregon officials, and/or auditors.
4. Request for Reimbursement shall be submitted electronically to:

BHAP@clackamas.us, NBenner@clackamas.us, and MWestbrook@clackamas.us

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

EXHIBIT E REPORTING

PROJECT NAME: Residential Treatment Services (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	AGREEMENT No. 20-036
SUBRECIPIENT: Cascadia Behavioral Healthcare, Inc.	

REPORTING

SUBRECIPIENT shall maintain record of disbursements of Personal Incidental Fund monies to clients. Record shall contain dates, disbursement amounts, and client signature acknowledging receipt of funds. SUBRECIPIENT shall make this record available for review upon request by COUNTY.

PERFORMANCE REPORTING

Measures and Outcomes Tracking System (“MOTS”)

SUBRECIPIENT is required to submit client data services elements to the State's MOTS data system as outlined in Section 2, Records, Maintenance, Access, and Confidentiality of **Exhibit H: CMHP Required Provider Agreement Provisions**.

INCIDENT REPORTING

Clackamas County BHD defines a reportable incident as an event in which an individual is believed to have been abused, endangered, or significantly harmed. A reportable incident may include, but is not limited to, any serious incident that presents a risk to health and safety and may be a result of staff action or inaction, incidents between individuals, incidents that occur on passes, or incidents of self-harm where medical attention is necessary. Any such incident involving a client that occurs on SUBRECIPIENT's premise, with SUBRECIPIENT staff, or during the course of treatment by SUBRECIPIENT must be reported.

Examples of reportable incidents include:

- Seclusion and/or restraint resulting in physical injury
- Runaway from program or while on pass
- Medication error, which a reasonable person would conclude might have resulted in a death, serious injury or hospitalization. {Notes: Medication non-compliance does not have to be reported unless there is a resulting reportable event; medications missed while hospitalized does not have to be reported}
- **Severe property damage**
- **Serious injury resulting in medical attention**
- **Significant suicide attempt resulting in medical attention**
- **Death of a client/resident**
- **Death or serious injury of another individual caused by the client/resident**
- **Physical attack on another individual resulting in a physical injury**
- **Mandatory reporting event**
- **Allegation of abuse by program staff {See OAR 407-045-0290(5)}**

Procedure

- 1) **Items above in bold, italicized lettering require immediate notification to COUNTY Program Supervisor when such an incident occurs.**
- 2) SUBRECIPIENT shall send via secure email a copy of the incident report with twenty-four (24) hours, using the following address:

Secure email: NBenner@clackamas.us

- 3) Be advised that submitting an incident report **does not fulfill abuse reporting obligations**. Depending on the nature of the incident, an abuse report may also be required per the Abuse Reporting requirement noted above and in this Agreement. In the event of a death in which there is reasonable cause to believe that an adult has died as a result of abuse, the provider must also:
 - A. Notify OHA/Addictions and Mental Health Division of the incident **(855-503-SAFE)**.
 - B. Report the death to Clackamas County's Mental Health Abuse Investigators at **(503) 650-3000**. The State of Oregon, Addictions and Mental Health Division requires Clackamas County Adult Protective Service Investigators to investigate any death of a client receiving mental health services.
 - C. Submit evidence to the Clackamas County Adult Protective Service Investigator that the report has been made by sending, via secure email, a copy of the confirmed fax which notified the Division of the reportable incident. The report is to be sent to the email address above.

EXHIBIT F FINAL FINANCIAL REPORT

PROJECT NAME: Residential Treatment Services (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	Agreement #: 20-036 Date of Submission: XX/XX/XX
Has Subrecipient submitted all requests for reimbursement? Yes / No	
Has Subrecipient met all programmatic closeout requirements? Yes / No	

Final Financial Report

Report of Funds received, expended, and reported as match (if applicable) under this agreement

Total Federal Funds authorized on this Agreement:	
Year-to-Date Federal Funds requested for reimbursement on this Agreement:	
Total Federal Funds received on this Agreement:	
Total Other Funds authorized on this Agreement:	
Year-to-Date Other Funds requested for reimbursement on this Agreement:	
Total Other Funds received on this Agreement:	
Balance of unexpended Federal Funds (Line 1 minus Line 3):	
Balance of unexpended Other Funds (Line 4 minus Line 6):	

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Subrecipient's Certifying Official (printed): _____

Subrecipient's Certifying Official (signature): _____

Subrecipient's Certifying Official's title: _____

EXHIBIT G CMHP REQUIRED FEDERAL TERMS AND CONDITIONS

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

1. **Miscellaneous Federal Provisions.** SUBRECIPIENT shall comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Services. Without limiting the generality of the foregoing, Subrecipient expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Services in violation of 42 U.S.C. 14402.
2. **Equal Employment Opportunity.** SUBRECIPIENT 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 Agreement, including amendments, exceeds \$150,000 SUBRECIPIENT 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. SUBRECIPIENT 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.** SUBRECIPIENT 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 Agreement, SUBRECIPIENT certifies, to the best of the SUBRECIPIENT's knowledge and belief that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of Subrecipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the

- entering into of any cooperative 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, SUBRECIPIENT shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - c.** Subrecipient 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 Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - e.** No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
 - f.** No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
 - g.** The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
 - h.** No part of any federal funds paid to SUBRECIPIENT under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
- 6. Resource Conservation and Recovery.** SUBRECIPIENT 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.** SUBRECIPIENT, as defined in 45 CFR 75.2, shall comply with applicable Code of Federal Regulations ("CFR") governing expenditure of federal funds. If SUBRECIPIENT 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. Records must be available for review or audit by appropriate officials.
8. **Debarment and Suspension.** SUBRECIPIENT 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.** SUBRECIPIENT shall comply with the following provisions to maintain a drug-free workplace: (i) Subrecipient certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in SUBRECIPIENT's workplace or while providing Services to OHA clients. SUBRECIPIENT's notice shall specify the actions that will be taken by SUBRECIPIENT against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, SUBRECIPIENT's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of Services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) 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 SUBRECIPIENT, or any of SUBRECIPIENT's employees, officers, agents may provide any Service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent has used a controlled substance, prescription or non-prescription medication that impairs SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent or SUBRECIPIENT'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 Agreement.

10. **Pro-Children Act.** SUBRECIPIENT 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 SUBRECIPIENT provides any Service in which costs are paid in whole or in part by Medicaid, SUBRECIPIENT shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
 - a. Keep such records as are necessary to fully disclose the extent of the services provided to Individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a (a)(27); 42 CFR 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. SUBRECIPIENT shall acknowledge SUBRECIPIENT's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid agreement) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, 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.** SUBRECIPIENT 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, SUBRECIPIENT shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an Individual may apply for or receive an application for public assistance.
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 ten (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 Addiction Treatment, Recovery & Prevention Services for Agencies receiving Substance Abuse Prevention and Treatment (SAPT) Block Grant funds.

- a. **Order for Admissions:**
 - (i) Pregnant women who inject drugs;
 - (ii) Pregnant substance abusers;
 - (iii) Other Individuals who inject drugs; and
 - (iv) All others.
- b. **Women's or Parent's Services.** If SUBRECIPIENT provides A&D 61 and A&D 62 Services, SUBRECIPIENT must:
 - (i) Treat the family as a unit and admit both women or parent and their children if appropriate.
 - (ii) Provide or arrange for the following services to pregnant women and women with dependent children:
 - 1. Primary medical care, including referral for prenatal care;
 - 2. Pediatric care, including immunizations, for their children;
 - 3. Gender-specific treatment and other therapeutic interventions, e.g. sexual and physical abuse counseling, parenting training, and childcare;
 - 4. 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
 - 5. Appropriate case management services and transportation to ensure that women or parents and their children have access to the services in 1 through 4 above.
- c. **Pregnant Women.** If SUBRECIPIENT provides any Addiction Treatment, Recovery

& Prevention Services other than A&D 84, Problem Gambling, Client Finding Outreach Services, SUBRECIPIENT must:

- (i) 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 forty-eight (48) hours;
- (ii) If SUBRECIPIENT has insufficient capacity to provide treatment Services to a pregnant woman, Subrecipient 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 forty-eight (48) hours, including a referral for prenatal care; and
- (iii) 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 SUBRECIPIENT provides any Addiction Treatment, Recovery & Prevention Services other than A&D 84, Problem Gambling, Client Finding Outreach Services, SUBRECIPIENT must:

- (i) 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;
- (ii) Programs that receive funding under the grant and that treat Individuals for intravenous substance abuse, upon reaching ninety (90) percent of its capacity to admit Individuals to the program, must provide notification of that fact to the State within seven (7) calendar days;
- (iii) If SUBRECIPIENT receives a request for admission to treatment from an intravenous drug abuser, Subrecipient must, unless it succeeds in referring the Individual to another Provider with treatment capacity, admit the Individual to treatment not later than:
 - 1. Fourteen (14) calendar days after the request for admission to Subrecipient is made;
 - 2. One hundred-twenty (120) 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 forty-eight (48) hours after such request; or
 - 3. If SUBRECIPIENT 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 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 forty-eight (48) hours.

e. Infectious Diseases. If SUBRECIPIENT provides any Addiction Treatment, Recovery & Prevention Services, other than A&D 84, Problem Gambling, Client Finding Outreach Services, Subrecipient must:

- (i) Complete a risk assessment for infectious disease including human

- immunodeficiency virus (HIV) and tuberculosis (TB), as well as sexually transmitted diseases, based on protocols established by OHA, for every Individual seeking Services from SUBRECIPIENT; and
- (ii) 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 Subrecipient denies an Individual admission on the bases of lack of capacity, refer the Individual to another provider of tuberculosis services.
 - (iii) For purposes of (ii) above, "tuberculosis services" means:
 - 1. Counseling the Individual with respect to tuberculosis;
 - 2. 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
 - 3. Appropriate treatment services.
- f. **OHA Referrals.** If SUBRECIPIENT provides any Addiction Treatment, Recovery & Prevention Services, other than A&D 84, Problem Gambling, Client Finding Outreach Services, SUBRECIPIENT 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 Addiction Treatment, Recovery & Prevention and Problem Gambling Service delivery to persons referred by OHA.
- g. **Barriers to Treatment.** Where there is a barrier to delivery of any Addiction Treatment, Recovery & Prevention and Problem Gambling Service due to culture, gender, language, illiteracy, or disability, SUBRECIPIENT shall develop support services available to address or overcome the barrier, including:
 - (i) Providing, if needed, hearing impaired or foreign language interpreters.
 - (ii) Providing translation of written materials to appropriate language or method of communication.
 - (iii) Providing devices that assist in minimizing the impact of the barrier.
 - (iv) Not charging clients for the costs of measures, such as interpreters, that are required to provide nondiscriminatory treatment.
- h. **Misrepresentation.** SUBRECIPIENT 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.** Addiction Treatment, Recovery & Prevention and Problem Gambling Services funded through this Agreement, 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 SUBRECIPIENT has Addiction Treatment, Recovery & Prevention Services treatment capacity that has been designated for children, adolescents, pregnant women, and women with dependent children, SUBRECIPIENT 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.** SUBRECIPIENT must comply with 42 CFR Part 2 when delivering an Addiction Treatment, Recovery & Prevention Service that includes disclosure of Client information for purposes of eligibility determination. SUBRECIPIENT 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 an Addiction Treatment, Recovery & Prevention Service to that Individual.

16. Special Federal Requirements Applicable To Addiction Treatment, Recovery & Prevention Services for Subrecipients Receiving Temporary Assistance for Needy Families (“TANF”) Grant Funds.

Funding Requirements. TANF may only be used for families receiving TANF, and for families at-risk of receiving TANF, and for the purpose of providing housing services (room and board) for Individuals who are dependent children ages eighteen (18) years or younger whose parent is in adult addiction residential treatment, so that the children may reside with their parent in the same treatment facility. Families at-risk of receiving TANF must:

- a. Include a dependent child age eighteen (18) years of age or under, who is living with a parent or caretaker relative. “Caretaker relative” means a blood relative of the child; stepmother, stepfather, stepbrother, or stepsister, or an individual who has legally adopted the child.
- b. Be an Oregon resident.
- c. Have income at or below 25% of the Federal Poverty Level.

Use of TANF block grant funds and state expenditures counted towards TANF MOE must meet the requirements of 45 CFR Part 263. Only non-medical services may be provided with TANF Block Grant Funds.

17. Community Mental Health Block Grant (CFDA 93.958). All funds, if any, awarded under this Agreement for Community 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 Subrecipient shall comply with those restrictions.

18. Substance Abuse Prevention and Treatment (CFDA 93.959). To the extent SUBRECIPIENT provides any Service in which costs are paid in whole or in part by the Substance Abuse, Prevention, and Treatment Block Grant, SUBRECIPIENT 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 SUBRECIPIENT provides any substance abuse prevention or treatment services, Subrecipient shall comply with the confidentiality requirements of 42 CFR Part 2. CMHP may not use the funds received under this Agreement for inherently religious activities, as described in 45 CFR Part 87.

19. 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/hsd/amh/Pages/federal-reporting.aspx>.

20. Super Circular Requirements. 2 CFR Part 200, or the equivalent applicable provision adopted by the awarding agency in 2 CFR Subtitle B, including but not limited to the following:

- a. **Property Standards.** 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.

- b. Procurement Standards.** When procuring goods and services (including professional consulting services), applicable state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B, and 279C or 2 CFR §§ 200.318 through 200.326, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, as applicable.
- c. Contract Provisions.** The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit, are, to the extent applicable, obligations of SUBRECIPIENT.

EXHIBIT H CMHP REQUIRED PROVIDER AGREEMENT PROVISIONS

1. **Expenditure of Funds.** SUBRECIPIENT may expend the funds paid to SUBRECIPIENT under this Agreement solely on the delivery of services subject to the following limitations (in addition to any other restriction of limitations imposed by this Agreement):
 - a. SUBRECIPIENT may not expend on the delivery of Service any funds paid to SUBRECIPIENT under this Agreement in excess of the amount reasonable and necessary to provide quality delivery of these Services.
 - b. If this Agreement requires SUBRECIPIENT to deliver more than one service, SUBRECIPIENT may not expend funds paid to Subrecipient under this Agreement for a particular service on the delivery of any other service.
 - c. If this Agreement requires Subrecipient to deliver Addiction Treatment, Recovery & Prevention, and Problem Gambling Services, SUBRECIPIENT may not use the funds paid to SUBRECIPIENT under this Agreement for such services to:
 - i. Provide inpatient hospital services;
 - ii. Make cash payment to intended recipients of health services;
 - iii. 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;
 - iv. 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 Agreement or otherwise);
 - v. 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 Agreement 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. SUBRECIPIENT may expend funds paid to SUBRECIPIENT under this Agreement only in accordance with OMB Circulars or 45 CFR Part 75, as applicable on Allowable Costs. If Subrecipient 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 SUBRECIPIENT 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. SUBRECIPIENT, if subject to this requirement, shall at SUBRECIPIENT'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 Agreement and shall submit or cause to be submitted to OHA the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of SUBRECIPIENT responsible for the financial management of funds received under this Agreement. 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. SUBRECIPIENT may not use the funds received under this Agreement 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 Subrecipient that are directly related to this Agreement, the funds paid to SUBRECIPIENT hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, SUBRECIPIENT shall permit authorized representatives of COUNTY and the Oregon Health Authority to perform site reviews of all services delivered by SUBRECIPIENT hereunder.
- b. **Retention of Records.** SUBRECIPIENT shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the funds paid to Subrecipient hereunder or to any services delivered hereunder, for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the termination or expiration of this Agreement. If there are unresolved audit or other questions at the end of the six (6) year period, SUBRECIPIENT shall retain the records until the questions are resolved.
- c. **Expenditure Records.** SUBRECIPIENT shall document the expenditure of all funds paid to SUBRECIPIENT under this Agreement. Unless applicable federal law requires SUBRECIPIENT to utilize a different accounting system, SUBRECIPIENT 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 SUBRECIPIENT under this Agreement were expended.
- d. **Client Records.** Unless otherwise specified in this Agreement, SUBRECIPIENT shall create and maintain a client record for each client who receives services under this Agreement. The client record must contain:
 - i. Client identification;
 - ii. Problem assessment;
 - iii. Treatment, training and/or care plan;
 - iv. Medical information when appropriate; and
 - v. Progress notes including service termination summary and current assessment or evaluation instrument as designated by the Oregon Health Authority in administrative rules.

SUBRECIPIENT 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 (6) years from termination or expiration of this Agreement.

- e. **Safeguarding of Client Information.** SUBRECIPIENT shall maintain the confidentiality of Client records as required by applicable state and federal law, including without limitation, ORS 179.495 to 179.509, 45 CFR Part 205, 42 CFR Part 2, any administrative rule adopted by OHA implementing the foregoing laws, and any written policies made available to SUBRECIPIENT by COUNTY or OHA. SUBRECIPIENT 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/or OHA for review and inspection as reasonably requested by COUNTY or OHA.

- e. **Data Reporting.** All Individuals receiving Services with funds provided under this Agreement 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/hsd/amh-mots/Pages/index.aspx>, and the "Who Reports in MOTS Policy", as follows:

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:

- i. 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;
- ii. 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]);
- iii. 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
- iv. 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 there are any questions, contact MOTS Support at MOTS.Support@state.or.us.

3. **Alternative Formats of Written Materials.** In connection with the delivery of Services, SUBRECIPIENT shall:
- a. Make available to a Client, without charge to the Client, upon the Client's, COUNTY's or the Oregon Health Authority's request, an 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 SUBRECIPIENT.
 - 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 SUBRECIPIENT.
 - 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 SUBRECIPIENT.
 - 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 material" includes, without limitation, all written materials created or delivered in connection with the services and all SUBRECIPIENT contracts related to this Agreement. COUNTY may develop its own forms and materials and with such forms and materials 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.** SUBRECIPIENT shall prepare and furnish the following information to COUNTY and the Oregon Health Authority when a service is delivered under this Agreement.
 - 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 COUNTY or the Oregon Health Authority reasonably requests.
5. **Compliance with Law.** SUBRECIPIENT shall comply with all state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the delivery of services hereunder. Without limiting the generality of the foregoing, Subcontractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement:
 - 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 Agreement.

The laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including SUBRECIPIENT, 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, SUBRECIPIENT shall comply, as if it were County thereunder, with the federal requirements set forth in **Exhibit G, CMHP Required Federal Terms and Conditions**, to the certain 2019-2021 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services between COUNTY and the Oregon Health Authority dates as of July 1, 2019, which Exhibit is incorporated herein by this reference. For purposes of the Agreement, all references in this Agreement to federal and state laws are references to federal and state laws as they may be amended from time to time.

6. Unless SUBRECIPIENT is a State of Oregon governmental agency, SUBRECIPIENT 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, SUBRECIPIENT 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 SUBRECIPIENT, including but not limited to the activities of Subrecipient or its officers, employees, subcontractors or agents under this Agreement.
8. SUBRECIPIENT understands that SUBRECIPIENT 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. SUBRECIPIENT shall only conduct transactions that are authorized by COUNTY for transactions with the Oregon Health Authority that involve COUNTY funds directly related to this Agreement.
10. SUBRECIPIENT (s) that are not units of local government as defined in ORS 190.003 shall obtain, at SUBRECIPIENT expense, and maintain in effect with respect to all occurrences taking place during the term of the Agreement, insurance requirements as defined in the Agreement and incorporated herein by this reference (**Exhibit J, Insurance**).
11. SUBRECIPIENT (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 not 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 SUBRECIPIENT or any of the officers, agents, employees or subcontractors of the SUBRECIPIENT (Claims). If 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 Subrecipient from and against any and all claims.
12. SUBRECIPIENT shall include sections 1 through 11, in substantially the form set forth above, in all permitted SUBRECIPIENT contracts under this Agreement.
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 SUBRECIPIENT in connection with the Services. With respect to that portion of the intellectual property that SUBRECIPIENT owns, SUBRECIPIENT grants to OHA and the County a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to: (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property; (2) authorize third parties to exercise the rights set forth in Section 13.a.(1) on OHA and 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 SUBRECIPIENT 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 created or delivered by Subrecipient in connection with the Services, OHA will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to Subrecipient to use, copy distribute, display, build upon and improve the intellectual property.

EXHIBIT I CMHP SERVICE ELEMENTS

MHS 20 – NON-RESIDENTIAL MENTAL HEALTH SERVICES FOR ADULTS

1. Service Description

a. Definition

DSM 5 means The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), incorporated by reference herein, 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.

b. MHS 20 Services are:

- i. 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.
- ii. Community-based services that shall include one or more of the following:
 1. 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;
 2. Apply OHA approved, standardized level of care tools for Individuals diagnosed with serious and persistent mental illness at intervals prescribed by OHA;
 3. Condition management and whole person approach to single or multiple conditions based on goals and needs identified by the Individual;
 4. General outpatient services including, but not limited to, care coordination and case management;
 5. Medication and medication monitoring;
 6. Meaningful Individual and family involvement;
 7. Rehabilitation services including Individual, family, and group counseling;
 8. Coordinate and facilitate access to appropriate housing services and community supports in the Individual's community of choice, including rent subsidy; and
 9. Other services and supports as needed for Individuals at the sole discretion of OHA.
- iii. SUBRECIPIENT shall provide Services, including but not limited to:
 1. Outreach: Partner with healthcare providers and other social service partners who provide screening for the presence of behavioral health conditions to facilitate access to appropriate services;
 2. Early Identification and Screening: Conduct periodic and systematic methods that identify Individuals with behavioral health conditions and potential physical health consequences of behavioral health conditions which consider epidemiological and community factors, as identified in the most recently submitted and approved Local Plan; and

3. Initiation and Engagement: Promote initiation and engagement of Individuals receiving services and supports, which may include but are not limited to:
 - a. Brief motivational counseling; and
 - b. Supportive services to facilitate participation in ongoing treatment.

2. Performance Requirements

SUBRECIPIENT shall:

- a. Provide coordination of care services for Individuals living in residential treatment programs. The coordination of care shall include participation in the residential Provider's treatment planning process and in planning for the Individual's transition to outpatient services;
- b. Comply with Outpatient Services, as described in OAR 309-019-0100 through 309-019-0220, and Community Treatment and Supports, as described in OAR 309-032-0301 through 309-032-0890, as such rules may be revised from time to time; and
- c. Maintain a Certificate of Approval for the delivery of clinical services in accordance with OAR 309-008-0100 through OAR 309-008-1600; as such rules may be revised from time to time.

3. Reporting Requirements

All Individuals receiving MHS 20 Services with funds provided through this Agreement 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/amh/mots/Pages/resource.aspx>, and the Who Reports in MOTS Policy.

SUBRECIPIENT 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 Agreement.

4. Confirmation of Performance and Reporting Requirements

SUBRECIPIENT shall be required to demonstrate through the data properly reported in accordance with the "Reporting Requirements" section above and any reporting requirement contained in Exhibit A, Scope of Work, of this Agreement, how funds provided for MHS 20 Services were utilized consistent with the terms and limitations herein to meet the performance requirement of this Service Description, and that SUBRECIPIENT may be subject to the monitoring and review of performance requirements and quality measures by OHA.

MHS 28 – RESIDENTIAL TREATMENT SERVICES

1. Service Description

- a. Residential Treatment Services (MHS 28 Services) are:
 - i. Services delivered on a twenty-four (24)-hour basis to Individuals who are uninsured, underinsured, not eligible for Medicaid, or have exhausted Medicaid services, including those who meet the criteria for Citizen Alien Waived Medical Program. Individuals must be eighteen (18) years of age or

- older with mental or emotional disorders, who have been hospitalized or are at immediate risk of hospitalization, who need continuing Services to prevent hospitalization or who are a danger to themselves or others, or who otherwise requires continuing care to maintain stability and learn skills needed to be placed in a more integrated community setting; and
- ii. Services delivered to Individuals that OHA determines are currently unable to live independently without supervised intervention, training, or support.

The specified MHS 28 Services delivered to an Individual are determined based upon a person-centered assessment of treatment needs and the development of a Plan of Care that is individualized to promote stabilization, skill building, and preparation to be living in a more integrated community.

- b. MHS 28 Services delivered in Residential Treatment Facilities (RFT), as defined in OAR 309-035-0105, Residential Treatment Homes (RTH), as defined in OAR 309-035-0150, or another licensed setting approved by OHA include, but are not limited to, the following:
 - i. Crisis stabilization services such as accessing psychiatric, medical, or qualified professional intervention to protect the health and safety of the Individual and others;
 - ii. Timely, appropriate access to crisis intervention to prevent or reduce acute emotional distress, which might necessitate psychiatric hospitalization;
 - iii. Management of personal money and expenses;
 - iv. Supervision of daily living activities and life skills, such as training in nutritional wellness, personal hygiene, clothing care and grooming, communication with social skills, health care, household management, and using community resources to support increasing independence and preparation for living in the most integrated community environment;
 - v. Provision of care including assumption of responsibility for the safety and well-being of the Individual;
 - vi. Administration and supervision of prescribed and non-prescribed medication(s);
 - vii. Provision of or arrangement for routine and emergency transportation;
 - viii. Management of aggressive or self-destructive behavior;
 - ix. Management of a diet, prescribed by a physician, requiring extra effort to expense in preparation of food; and
 - x. Management of physical or health problems including, but not limited to, seizures, incontinency, diabetes, and pain management.

Financial assistance is dependent upon the Individual served meeting defined criteria as cited in OAR 410-172-0630 and OAR 309-035-0200. OHA and its designees have the authority to review clinical records and have direct contract with Individuals. SUBRECIPIENT shall notify Individuals in writing of admission decisions in accordance with OAR 309-035-0163(10).

2. Performance Requirements

SUBRECIPIENT providing MHS 28 Services funded through this Agreement shall give first priority in admission to referrals for Individuals transitioning from the Oregon State Hospital (OSH); second priority to referrals for Individuals on the OSH wait list or in acute care psychiatric hospitals; and then all others.

SUBRECIPIENT providing MHS 28 Services funded through this Agreement shall deliver MHS 28 Services in a facility licensed as a RTH, RTF or Secured Residential Treatment Facility (SRTF), in accordance with OAR 309-035-0100 through 309-035-0225, as such rules may be revised from time to time.

3. Reporting Requirements

All Individuals receiving MHS 28 Services with funds provided through this Agreement 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/amh/mots/Pages/resource.aspx> and the Who Reports in MOTS Policy.

SUBRECIPIENT 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 Agreement.

EXHIBIT J INSURANCE

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

1. **Workers Compensation.** SUBRECIPIENT, its subcontractors, if any, and all employers providing work, labor, or materials under this Agreement 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. SUBRECIPIENT 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 Agreement. The policy must provide extending reporting period coverage for claims made within two years after the Agreement 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 Agreement.

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. Subrecipient'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 Agreement.

10. "Tail" Coverage. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Subrecipient 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 Agreement, for a minimum of twenty-four (24) months following the later of: (i) SUBRECIPIENT's completion and COUNTY's acceptance of all Services required under the Provider Agreement; or (ii) the expiration of all warranty periods provided under the Agreement. Notwithstanding the foregoing 24-month requirement, if Subrecipient 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 SUBRECIPIENT may request and COUNTY may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If COUNTY approval is granted, SUBRECIPIENT shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

11. Self-insurance. SUBRECIPIENT may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that Subrecipient'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. SUBRECIPIENT shall furnish an acceptable insurance certificate to COUNTY for any insurance coverage required by this Agreement 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. SUBRECIPIENT shall furnish evidence of the insurance required in this Agreement. SUBRECIPIENT will maintain the insurance in full force throughout the duration of this Agreement. No Agreement 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 which references "Clackamas County Agreement 20-036" in the certificate description. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to COUNTY. SUBRECIPIENT shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

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

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

BHContracts@clackamas.us

Clackamas County Behavioral Health Division
2051 Kaen Road, Suite #154
Oregon City, OR 97045

- 13. Insurance Carrier Rating.** Coverages provided by Subrecipient must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 14. Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the Work performed under this Agreement.
- 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 SUBRECIPIENT or its insurer(s) to 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.** COUNTY will be entitled to enforce SUBRECIPIENT 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 Agreement as permitted by the Agreement, or pursuing legal action to enforce the insurance requirements. In no event shall COUNTY permit a SUBRECIPIENT to work under this Agreement when COUNTY is aware that Subrecipient is not in compliance with the insurance requirements.

EXHIBIT K QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT (QSOBAA)

This Qualified Service Organization Business Associate Agreement ("Agreement") is entered into as of **June 1, 2019** ("Effective Date") by and between **Clackamas County, a political subdivision of the State of Oregon, on behalf of its Health, Housing and Human Services, Behavioral Health Division** ("Covered Entity") 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:

- a. 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.
- b. Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- c. 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,
- d. 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 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.
- 7.5 **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.
- 7.6 **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**

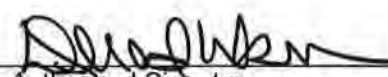
The Parties hereto have duly executed this Agreement as of the Effective Date as defined here above.

Business Associate

Covered Entity

**CASCADIA BEHAVIORAL HEALTHCARE,
INC.**

CLACKAMAS COUNTY

 10/16/2020
Authorized Signature Date

Richard Swift, Director Date
Health, Housing and Human Services

Derald Walker, PhD / President-CEO

Name / Title (Printed)

November 5, 2020

Board of Commissioners
Clackamas County

Members of the Board:

Approval of a Subrecipient Agreement with Cascadia Behavioral Healthcare, Inc. for
Assertive Community Treatment Program

Purpose/Outcomes	To provide Assertive Community Treatment program services to eligible Clackamas County residents.
Dollar Amount and Fiscal Impact	The contract maximum is \$89,212.68.
Funding Source	No County General Funds are involved. State of Oregon, Community Mental Health Program (CMHP) funds are utilized.
Duration	Effective January 1, 2020 and terminates on June 30, 2021.
Previous Board Action	Previous Contract #8112 was reviewed and approved July 27, 2017, Agenda Item 072717-A2.
Counsel Review	Review by Counsel August 25, 2020 (AN)
Procurement Review	Was this item reviewed by Procurement? No Not required for subrecipient agreements.
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
Agreement No.	#9498 (#20-034)

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of Subrecipient Agreement with Cascadia Behavioral Healthcare, Inc. for Assertive Community Treatment (ACT) program services to eligible Clackamas County clients. ACT program services are designed for adults who have not responded well to traditional outpatient mental health services. Services include, but not limited to, assessments, psychiatric services, case management, employment and housing assistance, family support and education, and substance abuse services.

Cascadia Behavioral Healthcare, Inc. is a not-for-profit agency that delivers whole health care – integrated mental health and addiction services, primary care, and housing – to promote and support the well-being of the communities served. For more than thirty-five years, Cascadia has been the community health and housing safety net provider for Oregonians of all ages experiencing mental health and addiction challenges, trauma, poverty, and homelessness.

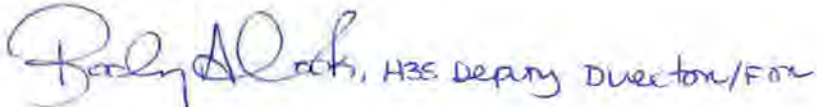
The Agreement, effective January 1, 2020 through June 30, 2021, has a maximum value of \$89,212.68. County Counsel reviewed this subrecipient agreement August 25, 2020.

This Agreement is retroactive due to changes in the State's coordinated care system and the impact of COVID-19 normal business operations. Cascadia Behavioral Healthcare provided ongoing critical services for Clackamas County clients, ensuring there is no gap in service.

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Richard Swift, H3S Deputy Director/For". The signature is written in a cursive style.

Richard Swift, Director
Health, Housing and Human Services

**CLACKAMAS COUNTY, OREGON
SUBRECIPIENT GRANT AGREEMENT 20-034**

Project Name: **Assertive Community Treatment** Behavioral Health Agreement #: **9498**
Project Number: **36060 – Community Mental Health Block Grant (CFDA 93.958)**

This Agreement is between Clackamas County, Oregon, acting by and through its Department of Health, Housing and Human Services, Behavioral Health Division ("COUNTY"), and Cascadia Behavioral Healthcare, Inc. ("SUBRECIPIENT"), an Oregon Non-profit Organization.

Clackamas County Data

Grant Accountant: Ke'ala Adolpho	Program Manager: Elise Thompson
Clackamas County – Finance 2051 Kaen Road Oregon City, OR 97045 (503) 742-5410 KAdolpho@clackamas.us	Clackamas County – Behavioral Health Division 2051 Kaen Road, Suite 154 Oregon City, OR 97045 (503) 742-5353 EThompson@clackamas.us

Subrecipient Data

Finance/Fiscal Representative: Chase Granger	Contract Representative: Hali Mendez / Risk Mgmt
Cascadia Behavioral Healthcare, Inc. PO Box 8459 Portland, OR 97207 Chase Granger 503.238.0769	Cascadia Behavioral Healthcare, Inc. PO Box 8459 Portland, OR 97207 503.963.7766 contracts@cascadiabhc.org
DUNS: 057505877	

RECITALS

WHEREAS, COUNTY is a political subdivision of the State of Oregon;

WHEREAS, COUNTY holds an Intergovernmental Agreement ("IGA") for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159) with the State of Oregon acting by and through its Oregon Health Authority ("OHA") for the biennium term of 2019-21;

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

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

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

WHEREAS, OHA is willing, upon the terms of and conditions of the aforementioned IGA, to provide

financial assistance to COUNTY to operate or contract for the operation of its community addictions and mental health programs;

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

WHEREAS, SUBRECIPIENT is a not-for-profit behavioral health agency that delivers whole health care, integrated mental health and addiction, primary care, and housing services to support the community, provide hope, and improve the well-being of those served.

THEREFORE, the parties seek to provide a whole health approach to addressing issues of mental health and addiction services to serve Clackamas County residents through this Subrecipient Grant Agreement of federal financial assistance, which sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

According to the terms of this Subrecipient Grant Agreement (this "Agreement") COUNTY and SUBRECIPIENT agree as follows:

AGREEMENT

- 1. Term and Effective Date.** Pursuant to the terms of the grant award, this Agreement shall be effective **January 1, 2020** and shall expire on **June 30, 2021**, unless sooner terminated or extended pursuant to the terms hereof.
- 2. Program.** The Program is described in attached **Exhibit A: Subrecipient Scope of Work**. SUBRECIPIENT agrees to carry out the program in accordance with the terms and conditions of this Agreement.
- 3. Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Community Mental Health Program ("CMHP") IGA 159159 awarded on June 26, 2019, which is/are the source of the grant funding, in addition to compliance with requirements of Title 42 of the *Code of Federal Regulations* ("CFR"), Part 6A, Sub-Part II & III. A copy of the relevant sections of that grant award have been provided to SUBRECIPIENT by COUNTY, which are attached to and made a part of this Agreement by reference. SUBRECIPIENT shall further comply with any requirements required by U.S. Department of Health and Human Services, together with any and all terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State and Federal funding requirements.
- 4. Grant Funds.** COUNTY's funding for this Agreement is the 2019-2021 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159). The maximum, not to exceed, grant amount COUNTY will pay is **\$89,212.68**. This is a rate-based agreement and disbursements will be made in accordance with the schedule and requirements contained in **Exhibit D: Required Financial Reporting and Reimbursement Request** and **Exhibit E: Performance Measures and Reporting**.

Failure to comply with the terms of this Agreement may result in withholding of payment. Funding for this Agreement is from the following source:

- 4.1. **Federal Funds: \$89,212.68** in federal funds are provided through the Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159) (CFDA 93.958) issued to COUNTY by the State of Oregon acting by and through its OHA. The State of Oregon receives funds through the Mental Health Block Grant (MHBG) funds from the U.S. Department of Health and Human Services, Office of Substance Abuse and Mental Health Services Administration.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty-five (45) calendar days before this Agreement expires. No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement except for the final payment. The final request for payment must be submitted to COUNTY no later than ten (10) days after the end date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.
6. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other upon thirty (30) business days-notice. This notice may be transmitted in person, by certified mail, facsimile, or by email.
7. **Funds Available and Authorized.** COUNTY certifies that funds sufficient to pay for this Agreement have been obligated to COUNTY. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
8. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 7.
9. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
 - a) **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
 - b) **Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within thirty (30) days of becoming aware of the likely or actual changes and a statement of whether or not SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
 - c) **Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal Government shall be the liability of SUBRECIPIENT.

- d) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- e) **Match.** Matching funds are not required for this Agreement.
- f) **Budget.** SUBRECIPIENT's use of funds may not exceed the amounts specified in the **Exhibit B: Subrecipient Program Budget**. At no time may budget modification change the scope of the original grant application or Agreement.
- g) **Indirect Cost Recovery.** Indirect cost recovery is not available on this award.
- h) **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.
- i) **Payment.** SUBRECIPIENT must submit a final request for payment **no later than ten (10) days after the end date of this Agreement**. Routine requests for reimbursement should be submitted as specified in **Exhibit D: Required Financial Reporting and Reimbursement Request**.
- j) **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in **Exhibit E: Performance Measures and Reporting** for each period (monthly, quarterly, and final) during the term of this Agreement.
- k) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or SUBRECIPIENT, in accordance with Treasurer Regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed **Exhibit D: Required Financial Reporting and Reimbursement Request** on a monthly basis.
- l) **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.343—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (**Exhibits D & F**), performance (**Exhibit E**), and other reports as required by the terms and conditions of the federal award and/or COUNTY, no later than ninety (90) calendar days after the end date of this Agreement.
- m) **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number using the Data Universal Numbering System (DUNS) as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, now located at <http://www.sam.gov>.
- n) **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <https://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

- o) **Lobbying.** SUBRECIPIENT certifies (**Exhibit C: Lobbying Certificate**) that no portion of the federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U. S. C. 1352. In addition, SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- p) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. SUBRECIPIENTS of federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse ("FAC") within nine (9) months from SUBRECIPIENT'S fiscal year end or thirty (30) days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within nine (9) months from SUBRECIPIENT'S fiscal year end or thirty (30) days after issuance of the reports, whichever is sooner.
- q) **Monitoring.** SUBRECIPIENT agrees to allow COUNTY and the Oregon Health Authority access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring in accordance with 2 CFR 200.331. COUNTY, OHA, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY's discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.
- r) **Specific Conditions.** None.
- s) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337.
- t) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services Agreement No. 159159, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the Clackamas County, as grantee, under those grant documents.

- u) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by SUBRECIPIENT in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to COUNTY at law, in equity, or under this Agreement.

10. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal Government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse; and (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT. Additional requirements are as specified in 45 CFR Part 96; also portions of the 2 CFR Part 200/45 CFR Part 75. No federal funds may be used to provide services in violation of 42 U.S.C. 14402.
- b) **Rights to Inventions Made Under a Contract or Agreement.** SUBRECIPIENT agrees that contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.
- c) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this Agreement is in excess of \$150,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. SUBRECIPIENT shall include and require all Providers to include in all contracts with subcontractors receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.
- d) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- e) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request COUNTY to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) creates a problem for the design or delivery of other Services required under the Agreement. COUNTY shall

undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.

- f) **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- g) **Mileage reimbursement.** If mileage reimbursement is authorized in SUBRECIPIENT budget or by the written approval of COUNTY, mileage must be paid at the rate established by SUBRECIPIENT'S written policies covering all organizational mileage reimbursement or at the IRS mileage rate at the time of travel, whichever is lowest.
- h) **Human Trafficking.** In accordance with 2 CFR Part 175, SUBRECIPIENT, its employees, contractors and subrecipients under this Agreement and their respective employees may not:
 - 1) Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
 - 2) Procure a commercial sex act during the period of time the award is in effect; or
 - 3) Used forced labor in the performance of the Agreement or subaward under this Agreement, as such terms are defined in such regulation.

SUBRECIPIENT must inform COUNTY immediately of any information SUBRECIPIENT receives from any source alleging a violation of any of the above prohibitions in the terms of this Agreement. COUNTY may terminate this Agreement, without penalty, for violation of these provisions. COUNTY's right to terminate this Agreement unilaterally, without penalty, is in addition to all other remedies under this Agreement. SUBRECIPIENT must include these requirements in any subaward made to public or private entities under this Agreement.

11. Federal and State Procurement Standards

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
- b) COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, as they pertain to the purchase of goods and services under this Agreement and which are incorporated by reference herein.
- c) SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of

conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals (RFP) for a proposed procurement must be excluded by SUBRECIPIENT from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.

- d) SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

12. General Agreement Provisions.

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its elected officials, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.

To the extent permitted by applicable law, SUBRECIPIENT 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, the Oregon Health Authority, 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 SUBRECIPIENT, including but not limited to the activities of SUBRECIPIENT or its officers, employees, subcontractors or agents under this Agreement.

SUBRECIPIENT 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 SUBRECIPIENT or any of the officers, agents, employees or subcontractors of SUBRECIPIENT ("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 SUBRECIPIENT from and against any and all Claims.

- c) **Insurance.** COUNTY shall enforce SUBRECIPIENT compliance with the insurance requirements outlined herein, and shall take all reasonable steps to enforce such compliance. Examples of reasonable steps include issuing stop work orders until the insurance is in full force, terminating this Agreement, as permitted herein, or pursuing legal action to enforce such requirements. During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance required in **Exhibit J: Insurance**.
- d) **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.

- e) **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
- f) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- g) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- h) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- i) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- j) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- k) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- l) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

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

- Exhibit A SUBRECIPIENT Scope of Work
- Exhibit B SUBRECIPIENT Program Budget
- Exhibit C Lobbying Certificate
- Exhibit D Required Financial Reporting and Reimbursement Request
- Exhibit E Performance Measures and Reporting

- Exhibit F Final Financial Report
- Exhibit G CMHP Required Federal Terms and Conditions
- Exhibit H CMHP Required Provider Agreement Provisions
- Exhibit I CMHP Service Element
- Exhibit J Insurance
- Exhibit K Qualified Service Organization Business Associate Agreement

(Signature Page Follows)

SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

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

CASCADIA BEHAVIORAL HEALTHCARE, INC

By: 
Authorized Signature

Derald Walker, PhD / President-CEO 10/16/2020
Printed Name Date

847 NE 19th Ave - #100, Portland OR 97232
Street Address

MAIL : PO Box 8459, Portland OR 97207
City / State / Zip

503.238.0769
Phone / Fax

CLACKAMAS COUNTY


- Commissioner: Jim Bernard, Chair
- Commissioner: Sonya Fischer
- Commissioner: Ken Humberston
- Commissioner: Paul Savas
- Commissioner: Martha Schrader

Signing on Behalf of the Board:

Rod Cook, Assistant Director
Health, Housing & Human Service Department

Date

Approved to Form:


County Counsel

10/19/2020
Date

**EXHIBIT A
SUBRECIPIENT SCOPE OF WORK**

PROJECT NAME: Assertive Community Treatment (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	AGREEMENT No. 20-034
SUBRECIPIENT: Cascadia Behavioral Healthcare, Inc.	

A. SERVICE DESCRIPTION

SUBRECIPIENT shall provide Assertive Community Treatment ("ACT") Services with evidence-based, culturally, and linguistically appropriate clinical services and strategies which support mental health recovery.

1. ACT is an evidence-based practice for adults with severe and persistent mental illness ("SPMI") as defined in OAR 309-019-0105. ACT is a fidelity community-based treatment model that uses a multi-disciplinary team characterized by small client to staff ratios. Clients enrolled in ACT must be eighteen (18) years or older and meet admission criteria as described in OAR 309-019-0245. ACT services are time-limited and intensive, with multiple treatment contacts per week, and may include, but are not limited to: hospital discharge planning, case management, 24/7 in-person crisis intervention and mobile crisis service, psychiatric services, symptom management, nursing services, Individual Placement and Supported employment services, housing services, mental health and substance use disorder services, life skills training, and peer support services.
2. ACT services are designed to reduce or eliminate the debilitating symptoms of SPMI and prevent acute episodes. ACT services aim to integrate clients with SPMI in their communities, support recovery principles, and enhance their ability to live independently. ACT services must correspond to the ACT Fidelity Scale as modified by the Oregon Center of Excellence for Assertive Community Treatment and adhere to the National Program Standards for ACT Teams and operate within the ACT Program Operational Standards as defined in OAR 309-019-0242. If at any time SUBRECIPIENT (a) does not receive a minimum score of 114 on any fidelity review, or (b) does not meet the minimum operational requirement as defined by the Oregon Center of Excellence for Assertive Community Treatment and OAR 309-019-0242, then SUBRECIPIENT will have ninety (90) days to make improvement in order to retain certification, in compliance with OAR 309-019-0240. Services and activities are to be provided in a trauma informed and culturally appropriate manner.
3. SUBRECIPIENT shall deliver those ACT services to clients for which it is licensed and certified to provide. SUBRECIPIENT shall meet Continued Fidelity Requirements as defined in OAR 309-019-0235.
4. SUBRECIPIENT shall remain actively engaged with any client while they are hospitalized in acute care or sub-acute care within the client's community, including meeting with the client and serving as the primary care coordinator responsible for working with the hospital/sub-acute staff to develop an appropriate discharge plan. If a client is hospitalized in a remote location, SUBRECIPIENT will continue to provide active care coordination via phone.

SUBRECIPIENT will continue to provide active care coordination until such time as the client is either (s) discharged, or (b) transferred to the Oregon State Hospital. Care coordination shall not be suspended when the client is placed on the waitlist for the Oregon State Hospital; rather, the ACT team will continue to work actively with hospital/sub-acute staff to develop a plan to divert the client from admission to the Oregon State Hospital. For a client who is admitted to the Oregon State Hospital, SUBRECIPIENT will consult and coordinate with the BH Plan Partner and with the Oregon State Hospital treatment team to assist the client to transition to and from care at the Oregon State Hospital. SUBRECIPIENT and COUNTY will jointly determine, on a case-by-case basis, whether the client should be transitioned from ACT to another level of care.

5. SUBRECIPIENT shall deliver follow-up care for a client after discharge from a hospital (for treatment of a mental illness) within seven (7) calendar days of hospital discharge, with a minimum of at least one face-to-face meeting within that time frame.
6. SUBRECIPIENT shall collaborate with COUNTY's designated liaison to ensure clients receive the frequency and intensity of service that is clinically indicated, including regular updates on the program's census, access, capacity, and staffing.
7. SUBRECIPIENT shall collect and maintain clinical outcomes data utilizing at least one of the clinical outcome measures provided by the Oregon Center of Excellence for Assertive Community Treatment. SUBRECIPIENT shall submit outcomes data electronically to Center for Clinical Informatics or another regional database supported by CareOregon, or arrange for the quarterly transfer of outcomes data to the Regional Behavioral Health Outcomes Coordinator for the purpose of outcomes evaluation. SUBRECIPIENT shall submit all reports as required by the Oregon Health Authority, Oregon Center of Excellence for Assertive Community Treatment, Health Share, CareOregon, COUNTY, etc.

B. STAFFING

1. SUBRECIPIENT shall maintain staffing levels to ensure a minimum staff to client ratio of at least one (1) FTE for every ten (10) clients, not including support staff and psychiatrist.
2. Staffing shall include at minimum:
 - I. .5 FTE Licensed Medical Professional
 - II. 2 FTE Qualified Mental Health Professionals
 - III. 1 FTE Employment Specialist
 - IV. 1 FTE Peer Support Specialist
 - V. 1 FTE Registered Nurse

C. HOURS

SUBRECIPIENT's ACT team shall have sufficient numbers of staff to provide treatment, rehabilitation, and support services twenty-four (24) hours a day, seven (7) days a week.

D. ELIGIBILITY AND AUTHORIZATION

1. SUBRECIPIENT shall enroll medically appropriate individuals as designated in OAR 309-019-0245 Admission Criteria.
2. SUBRECIPIENT shall obtain a pre-authorization for services from COUNTY's Adult Services Team Supervisor.

**EXHIBIT B
SUBRECIPIENT PROGRAM BUDGET**

PROJECT NAME: Assertive Community Treatment (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	AGREEMENT No. 20-034
SUBRECIPIENT: Cascadia Behavioral Healthcare, Inc.	

SUBRECIPIENT to be compensated a capacity payment, for **three (3) slots**, of **\$4,956.26 per month**, **not to exceed \$89,212.68** for the term of the Agreement.

SUBRECIPIENT shall invoice COUNTY monthly at the rates specified.

EXHIBIT C
LOBBYING CERTIFICATE

PROJECT NAME: Assertive Community Treatment (Fund Source: Community Mental Health Block Grant 93.958)	AGREEMENT No. 20-034
SUBRECIPIENT: Cascadia Behavioral Healthcare, Inc.	

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

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

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

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

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

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

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

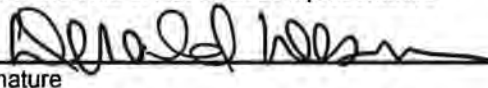
Cascadia Behavioral Healthcare, Inc.

Organization Name

Award Number or Project Name

Derald Walker, PhD / President-CEO

Name and Title of Authorized Representative


Signature

10/16/2020
Date

EXHIBIT D
REQUIRED FINANCIAL REPORTING AND REIMBURSEMENT REQUEST

PROJECT NAME: Assertive Community Treatment (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	AGREEMENT No. 20-034
SUBRECIPIENT: Cascadia Behavioral Healthcare, Inc.	

1. SUBRECIPIENT shall submit a monthly payment request referencing grant agreement number **20-034** and Behavioral Health Agreement **#9498**.
2. Requests for payment shall be submitted by the **10th of the month** for the previous month. The final request for payment shall be submitted by July 10, 2021 for month-ending June 30, 2021.
3. Request for payment shall be submitted electronically to:

BHAP@clackamas.us, EThompson@clackamas.us and MWestbrook@clackamas.us

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

EXHIBIT E PERFORMANCE MEASURES AND REPORTING

PROJECT NAME: Assertive Community Treatment (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	AGREEMENT No. 20-034
SUBRECIPIENT: Cascadia Behavioral Healthcare, Inc.	

PROGRAM PERFORMANCE MEASURES

1. SUBRECIPIENT shall send deliverables to COUNTY's designee by dates as indicated in this Exhibit.
2. Program Performance Measures:
 - A. Annually provide fidelity score, number of clients served, and percentage of payment that was encountered.
 - B. Submit fidelity review results to COUNTY once during the Agreement term.
 - C. Census reporting shall occur monthly.
 - D. Provide weekly report to COUNTY regarding availability of intake slots and whether any client was placed on a waitlist. If placed on a wait list, SUBRECIPIENT shall assign the client to a level of care that will provide the clinically necessary treatment to prevent hospitalizations and increase in clinical symptoms.
 - E. Submit quarterly outcome measures which will include:
 - I. Number of unique clients served;
 - II. Fidelity score; and
 - III. Percentage of invoiced payment that was encountered during the billing period.
 - F. Complete MOTS reporting
3. SUBRECIPIENT shall cooperate with COUNTY in the location of, diversion from, and authorization of psychiatric inpatient treatment services, sub-acute services, respite services and alternatives in less restrictive levels of care whenever possible. SUBRECIPIENT will assist in the development of community-based services.
4. SUBRECIPIENT shall collect and maintain self-report outcomes assessment(s), per regionally agreed upon outcomes tool instructions, at intake, and as appropriate per selected measure.
5. SUBRECIPIENT shall collect and maintain clinician-reported outcomes data at intake and quarterly in the approved CareOregon quarterly report and submit forms by fax for data entry.

REPORTING REQUIREMENTS

SUBRECIPIENT shall comply with the reporting requirements identified in **Exhibit I: CMHP Service Element**.

CRITICAL INCIDENT REPORTING

Clackamas County BHD defines a reportable incident as an event in which an individual is believed to have been abused, endangered, or significantly harmed. A reportable incident may include, but is not limited to, any serious incident that presents a risk to health and safety and may be a result of staff action or inaction, incidents between individuals, incidents that occur on passes, or incidents of self-harm where medical attention is necessary. Any such incident involving a client that occurs on SUBRECIPIENT's premise, with SUBRECIPIENT staff, or during the course of treatment by SUBRECIPIENT must be reported.

Examples of reportable incidents include:

- Seclusion and/or restraint resulting in physical injury
- Runaway from program or while on pass
- Medication error, which a reasonable person would conclude might have resulted in a death, serious injury or hospitalization. {Notes: Medication non-compliance does not have to be reported unless there is a resulting reportable event; medications missed while hospitalized does not have to be reported}
- ***Severe property damage***
- ***Serious injury resulting in medical attention***
- ***Significant suicide attempt resulting in medical attention***
- ***Death of a client/resident***
- ***Death or serious injury of another individual caused by the client/resident***
- ***Physical attack on another individual resulting in a physical injury***
- ***Mandatory reporting event***
- ***Allegation of abuse by program staff {See OAR 407-045-0290(5)}***

Procedure

- 1) **Items above in bold, italicized lettering require immediate notification to COUNTY Program Supervisor when such an incident occurs.**
- 2) SUBRECIPIENT shall send via secure email a copy of the incident report with twenty-four (24) hours, using the following address:

Secure email: NBenner@clackamas.us
- 3) Be advised that submitting an incident report **does not fulfill abuse reporting obligations**. Depending on the nature of the incident, an abuse report may also be required per the Abuse Reporting requirement noted above and in this Agreement. In the event of a death in which there is reasonable cause to believe that an adult has died as a result of abuse, the provider must also:
 - A. Notify OHA/Addictions and Mental Health Division of the incident **(855-503-SAFE)**.
 - B. Report the death to Clackamas County's Mental Health Abuse Investigators at **(503) 650-3000**. The State of Oregon, Addictions and Mental Health Division requires Clackamas County Adult Protective Service Investigators to investigate any death of a client receiving mental health services.
 - C. Submit evidence to the Clackamas County Adult Protective Service Investigator that the report has been made by sending, via secure email, a copy of the confirmed fax which

notified the Division of the reportable incident. The report is to be sent to the email address above.

EXHIBIT F FINAL FINANCIAL REPORT

PROJECT NAME: Assertive Community Treatment (Fund Source: Community Mental Health Block Grant, CFDA 93.958)	Agreement #: 20-034 Date of Submission: XX/XX/XX
Has Subrecipient submitted all requests for reimbursement? Yes / No	
Has Subrecipient met all programmatic closeout requirements? Yes / No	

Final Financial Report

Report of Funds received, expended, and reported as match (if applicable) under this agreement

Total Federal Funds authorized on this Agreement:	
Year-to-Date Federal Funds requested for payment on this Agreement:	
Total Federal Funds received on this Agreement:	
Balance of unexpended Federal Funds (Line 1 minus Line 3):	

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Subrecipient's Certifying Official (printed): _____

Subrecipient's Certifying Official (signature): _____

Subrecipient's Certifying Official's title: _____

EXHIBIT G CMHP REQUIRED FEDERAL TERMS AND CONDITIONS

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

1. **Miscellaneous Federal Provisions.** SUBRECIPIENT shall comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Services. Without limiting the generality of the foregoing, SUBRECIPIENT expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Services in violation of 42 U.S.C. 14402.
2. **Equal Employment Opportunity.** SUBRECIPIENT 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 Agreement, including amendments, exceeds \$150,000 SUBRECIPIENT 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. SUBRECIPIENT 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.** SUBRECIPIENT 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 Agreement, SUBRECIPIENT certifies, to the best of the SUBRECIPIENT 's knowledge and belief that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of SUBRECIPIENT, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the

- entering into of any cooperative 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, SUBRECIPIENT shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - c. SUBRECIPIENT 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 Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - e. No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
 - f. No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
 - g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
 - h. No part of any federal funds paid to SUBRECIPIENT under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
6. **Resource Conservation and Recovery.** SUBRECIPIENT 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.** SUBRECIPIENT, as defined in 45 CFR 75.2, shall comply with applicable Code of Federal Regulations (CFR) governing expenditure of federal funds. If SUBRECIPIENT 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 SUBRECIPIENT 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.** SUBRECIPIENT 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.** SUBRECIPIENT shall comply with the following provisions to maintain a drug-free workplace: (i) SUBRECIPIENT certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in SUBRECIPIENT's workplace or while providing Services to OHA clients. SUBRECIPIENT's notice shall specify the actions that will be taken by SUBRECIPIENT against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, SUBRECIPIENT's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of Services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) 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 SUBRECIPIENT, or any of SUBRECIPIENT's employees, officers, agents may provide any Service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent has used a controlled substance, prescription or non-prescription medication that impairs SUBRECIPIENT or SUBRECIPIENT's employee,

officer, agent or SUBRECIPIENT'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 Agreement.

10. **Pro-Children Act.** Subrecipient 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 SUBRECIPIENT provides any Service in which costs are paid in whole or in part by Medicaid, SUBRECIPIENT shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
 - a. Keep such records as are necessary to fully disclose the extent of the services provided to Individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a (a)(27); 42 CFR 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. SUBRECIPIENT shall acknowledge Subrecipient's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid agreement) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, 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.** SUBRECIPIENT 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, SUBRECIPIENT shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an Individual may apply for or receive an application for public assistance.
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 ten (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 Addiction Treatment, Recovery & Prevention Services for Agencies receiving Substance Abuse Prevention and Treatment (SAPT) Block Grant funds.

- a. **Order for Admissions:**
 - (i) Pregnant women who inject drugs;
 - (ii) Pregnant substance abusers;
 - (iii) Other Individuals who inject drugs; and
 - (iv) All others.
- b. **Women's or Parent's Services.** If Subrecipient provides A&D 61 and A&D 62 Services, Subrecipient must:
 - (i) Treat the family as a unit and admit both women or parent and their children if appropriate.
 - (ii) Provide or arrange for the following services to pregnant women and women with dependent children:
 - 1. Primary medical care, including referral for prenatal care;
 - 2. Pediatric care, including immunizations, for their children;
 - 3. Gender-specific treatment and other therapeutic interventions, e.g. sexual and physical abuse counseling, parenting training, and childcare;
 - 4. 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
 - 5. Appropriate case management services and transportation to ensure that women or parents and their children have access to the services

- in 1 through 4 above.
- c. **Pregnant Women.** If SUBRECIPIENT provides any Addiction Treatment, Recovery & Prevention Services other than A&D 84, Problem Gambling, Client Finding Outreach Services, Subrecipient must:
- (i) 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 forty-eight (48) hours;
 - (ii) If SUBRECIPIENT has insufficient capacity to provide treatment Services to a pregnant woman, Subrecipient 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 forty-eight (48) hours, including a referral for prenatal care; and
 - (iii) 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 SUBRECIPIENT provides any Addiction Treatment, Recovery & Prevention Services other than A&D 84, Problem Gambling, Client Finding Outreach Services, SUBRECIPIENT must:
- (i) 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;
 - (ii) Programs that receive funding under the grant and that treat Individuals for intravenous substance abuse, upon reaching ninety (90) percent of its capacity to admit Individuals to the program, must provide notification of that fact to the State within seven (7) calendar days;
 - (iii) If SUBRECIPIENT receives a request for admission to treatment from an intravenous drug abuser, Subrecipient must, unless it succeeds in referring the Individual to another Provider with treatment capacity, admit the Individual to treatment not later than:
 - 1. Fourteen (14) calendar days after the request for admission to Subrecipient is made;
 - 2. One hundred-twenty (120) 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 forty-eight (48) hours after such request; or
 - 3. If SUBRECIPIENT 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 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 forty-eight (48) hours.
- e. **Infectious Diseases.** If SUBRECIPIENT provides any Addiction Treatment, Recovery & Prevention Services, other than A&D 84, Problem Gambling, Client

Finding Outreach Services, SUBRECIPIENT must:

- (i) Complete a risk assessment for infectious disease including human immunodeficiency virus (HIV) and tuberculosis (TB), as well as sexually transmitted diseases, based on protocols established by OHA, for every Individual seeking Services from SUBRECIPIENT; and
 - (ii) 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 SUBRECIPIENT denies an Individual admission on the bases of lack of capacity, refer the Individual to another provider of tuberculosis services.
 - (iii) For purposes of (ii) above, "tuberculosis services" means:
 - 1. Counseling the Individual with respect to tuberculosis;
 - 2. 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
 - 3. Appropriate treatment services.
- f. **OHA Referrals.** If SUBRECIPIENT provides any Addiction Treatment, Recovery & Prevention Services, other than A&D 84, Problem Gambling, Client Finding Outreach Services, SUBRECIPIENT 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 Addiction Treatment, Recovery & Prevention and Problem Gambling Service delivery to persons referred by OHA.
- g. **Barriers to Treatment.** Where there is a barrier to delivery of any Addiction Treatment, Recovery & Prevention and Problem Gambling Service due to culture, gender, language, illiteracy, or disability, SUBRECIPIENT shall develop support services available to address or overcome the barrier, including:
 - (i) Providing, if needed, hearing impaired or foreign language interpreters.
 - (ii) Providing translation of written materials to appropriate language or method of communication.
 - (iii) Providing devices that assist in minimizing the impact of the barrier.
 - (iv) Not charging clients for the costs of measures, such as interpreters, that are required to provide nondiscriminatory treatment.
- h. **Misrepresentation.** SUBRECIPIENT 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.** Addiction Treatment, Recovery & Prevention and Problem Gambling Services funded through this Agreement, 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 SUBRECIPIENT has Addiction Treatment, Recovery & Prevention Services treatment capacity that has been designated for children, adolescents, pregnant women, and women with dependent children, SUBRECIPIENT 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.** SUBRECIPIENT must comply with 42 CFR Part 2 when delivering an Addiction Treatment, Recovery & Prevention Service that includes disclosure of Client information for purposes of eligibility determination.

SUBRECIPIENT 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 an Addiction Treatment, Recovery & Prevention Service to that Individual.

16. Special Federal Requirements Applicable To Addiction Treatment, Recovery & Prevention Services for Subrecipients Receiving Temporary Assistance for Needy Families (TANF) Grant Funds.

Funding Requirements. TANF may only be used for families receiving TANF, and for families at-risk of receiving TANF, and for the purpose of providing housing services (room and board) for Individuals who are dependent children ages eighteen (18) years or younger whose parent is in adult addiction residential treatment, so that the children may reside with their parent in the same treatment facility. Families at-risk of receiving TANF must:

- a. Include a dependent child age eighteen (18) years of age or under, who is living with a parent or caretaker relative. "Caretaker relative" means a blood relative of the child; stepmother, stepfather, stepbrother, or stepsister, or an individual who has legally adopted the child.
- b. Be an Oregon resident.
- c. Have income at or below 25% of the Federal Poverty Level.

Use of TANF block grant funds and state expenditures counted towards TANF MOE must meet the requirements of 45 CFR Part 263. Only non-medical services may be provided with TANF Block Grant Funds.

17. Community Mental Health Block Grant (CFDA 93.958). All funds, if any, awarded under this Agreement for Community 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 SUBRECIPIENT shall comply with those restrictions.

18. Substance Abuse Prevention and Treatment (CFDA 93.959). To the extent SUBRECIPIENT provides any Service in which costs are paid in whole or in part by the Substance Abuse, Prevention, and Treatment Block Grant, SUBRECIPIENT 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 SUBRECIPIENT provides any substance abuse prevention or treatment services, SUBRECIPIENT shall comply with the confidentiality requirements of 42 CFR Part 2. CMHP may not use the funds received under this Agreement for inherently religious activities, as described in 45 CFR Part 87.

19. 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/hspd/amh/Pages/federal-reporting.aspx>.

20. Super Circular Requirements. 2 CFR Part 200, or the equivalent applicable provision adopted by the awarding agency in 2 CFR Subtitle B, including but not limited to the following:

- a. **Property Standards.** 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the

required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.

- b. **Procurement Standards.** When procuring goods and services (including professional consulting services), applicable state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B, and 279C or 2 CFR §§ 200.318 through 200.326, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, as applicable.
- c. **Contract Provisions.** The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit, are, to the extent applicable, obligations of SUBRECIPIENT.

EXHIBIT H CMHP REQUIRED PROVIDER AGREEMENT PROVISIONS

1. **Expenditure of Funds.** Subrecipient may expend the funds paid to SUBRECIPIENT under this Agreement solely on the delivery of services subject to the following limitations (in addition to any other restriction of limitations imposed by this Agreement):
 - a. SUBRECIPIENT may not expend on the delivery of Service any funds paid to SUBRECIPIENT under this Agreement in excess of the amount reasonable and necessary to provide quality delivery of these Services.
 - b. If this Agreement requires SUBRECIPIENT to deliver more than one service, SUBRECIPIENT may not expend funds paid to SUBRECIPIENT under this Agreement for a particular service on the delivery of any other service.
 - c. If this Agreement requires SUBRECIPIENT to deliver Addiction Treatment, Recovery & Prevention, and Problem Gambling Services, Subrecipient may not use the funds paid to SUBRECIPIENT under this Agreement for such services to:
 - i. Provide inpatient hospital services;
 - ii. Make cash payment to intended recipients of health services;
 - iii. 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;
 - iv. 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 Agreement or otherwise);
 - v. 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 Agreement 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. SUBRECIPIENT may expend funds paid to SUBRECIPIENT under this Agreement only in accordance with OMB Circulars or 45 CFR Part 75, as applicable on Allowable Costs. If SUBRECIPIENT 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 SUBRECIPIENT 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. SUBRECIPIENT, if subject to this requirement, shall at SUBRECIPIENT'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 Agreement and shall submit or cause to be submitted to OHA the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of SUBRECIPIENT responsible for the financial management of funds received under this Agreement. 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. SUBRECIPIENT may not use the funds received under this Agreement 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 SUBRECIPIENT that are directly related to this Agreement, the funds paid to SUBRECIPIENT hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, SUBRECIPIENT shall permit authorized representatives of COUNTY and the Oregon Health Authority to perform site reviews of all services delivered by SUBRECIPIENT hereunder.
- b. Retention of Records.** SUBRECIPIENT shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the funds paid to SUBRECIPIENT hereunder or to any services delivered hereunder, for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the termination or expiration of this Agreement. If there are unresolved audit or other questions at the end of the six (6) year period, SUBRECIPIENT shall retain the records until the questions are resolved.
- c. Expenditure Records.** SUBRECIPIENT shall document the expenditure of all funds paid to SUBRECIPIENT under this Agreement. Unless applicable federal law requires SUBRECIPIENT to utilize a different accounting system, SUBRECIPIENT 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 Subrecipient under this Agreement were expended.
- d. Client Records.** Unless otherwise specified in this Agreement, SUBRECIPIENT shall create and maintain a client record for each client who receives services under this Agreement. The client record must contain:
- i.** Client identification;
 - ii.** Problem assessment;
 - iii.** Treatment, training and/or care plan;
 - iv.** Medical information when appropriate; and
 - v.** Progress notes including service termination summary and current assessment or evaluation instrument as designated by the Oregon Health Authority in administrative rules.

SUBRECIPIENT 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 (6) years from termination or expiration of this Agreement.

- e. Safeguarding of Client Information.** SUBRECIPIENT shall maintain the confidentiality of client records as required by applicable state and federal law, including without limitation, ORS 179.945 to 179.507, 45 CRF Part 205, 45 CRF Part 2, any administrative rule adopted by the Oregon Health Authority, implementing the foregoing laws, and any written policies made available to SUBRECIPIENT by COUNTY or by the Oregon Health Authority. SUBRECIPIENT 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 Agreement 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/hsd/amh-mots/Pages/index.aspx>, and the "Who Reports in MOTS Policy", as follows:

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:

- i. 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;
- ii. 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]);
- iii. 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
- iv. 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 there are any questions, contact MOTS Support at MOTS.Support@state.or.us.

3. **Alternative Formats of Written Materials.** In connection with the delivery of Services, SUBRECIPIENT shall:
- a. Make available to a Client, without charge to the Client, upon the Client's, COUNTY's or the Oregon Health Authority's request, an 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 SUBRECIPIENT.
 - 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 SUBRECIPIENT.
 - 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 SUBRECIPIENT.
 - 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 material" includes, without limitation, all written materials created or delivered in connection with the services and all subrecipient contracts related to this Agreement. COUNTY may develop its own forms and materials and with such forms and materials 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.** SUBRECIPIENT shall prepare and furnish the following information to COUNTY and the Oregon Health Authority when a service is delivered under this Agreement.
 - 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.** SUBRECIPIENT shall comply with all state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the delivery of services hereunder. Without limiting the generality of the foregoing, SUBRECIPIENT expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement:
 - 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 Agreement.

The laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including SUBRECIPIENT, 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, SUBRECIPIENT shall comply, as if it were COUNTY thereunder, with the federal requirements set forth in **Exhibit G, CMHP Required Federal Terms and Conditions**, to the certain 2019-2021 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services between COUNTY and the Oregon Health Authority dates as of July 1, 2019, which Exhibit is incorporated herein by this reference. For purposes of the Agreement, all references in this Agreement to federal and state laws are references to federal and state laws as they may be amended from time to time.

6. Unless SUBRECIPIENT is a State of Oregon governmental agency, SUBRECIPIENT 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, SUBRECIPIENT 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 SUBRECIPIENT, including but not limited to the activities of SUBRECIPIENT or its officers, employees, subcontractors or agents under this Agreement.
8. SUBRECIPIENT understands that SUBRECIPIENT 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. SUBRECIPIENT shall only conduct transactions that are authorized by COUNTY for transactions with the Oregon Health Authority that involve COUNTY funds directly related to this Agreement.
10. SUBRECIPIENT (s) that are not units of local government as defined in ORS 190.003 shall obtain, at SUBRECIPIENT's expense, and maintain in effect with respect to all occurrences taking place during the term of the Agreement, insurance requirements as defined in the Agreement and incorporated herein by this reference (**Exhibit J, Insurance**).
11. SUBRECIPIENT (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 not 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 SUBRECIPIENT or any of the officers, agents, employees or subcontractors of the SUBRECIPIENT (Claims). If 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 SUBRECIPIENT from and against any and all claims.
12. SUBRECIPIENT shall include sections 1 through 11, in substantially the form set forth above, in all permitted SUBRECIPIENT contracts under this Agreement.
13. **Ownership of Intellectual Property.**
 - a. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, OHA and COUNTY will not own the right, title and interest in any intellectual property created or delivered by SUBRECIPIENT in connection with the Services. With respect to that portion of the intellectual property that the Subrecipient owns, SUBRECIPIENT grants to OHA and COUNTY a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to: (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property; (2) authorize third parties to exercise the rights set forth in Section 13.a.(1) on OHA and 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 Subrecipient 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 created or delivered by SUBRECIPIENT in connection with the Services, OHA will grant a perpetual, worldwide, non-exclusive, royalty-free and

irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to SUBRECIPIENT to use, copy distribute, display, build upon and improve the intellectual property.

EXHIBIT I CMHP SERVICE ELEMENT

MHS 20 – NON-RESIDENTIAL MENTAL HEALTH SERVICES FOR ADULTS

1. Service Description

a. Definition

DSM 5 means The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), incorporated by reference herein, 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.

b. MHS 20 Services are:

- i. 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.
- ii. Community-based services that shall include one or more of the following:
 1. 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;
 2. Apply OHA approved, standardized level of care tools for Individuals diagnosed with serious and persistent mental illness at intervals prescribed by OHA;
 3. Condition management and whole person approach to single or multiple conditions based on goals and needs identified by the Individual;
 4. General outpatient services including, but not limited to, care coordination and case management;
 5. Medication and medication monitoring;
 6. Meaningful Individual and family involvement;
 7. Rehabilitation services including Individual, family, and group counseling;
 8. Coordinate and facilitate access to appropriate housing services and community supports in the Individual's community of choice, including rent subsidy; and
 9. Other services and supports as needed for Individuals at the sole discretion of OHA.
- iii. SUBRECIPIENT shall provide Services, including but not limited to:
 1. Outreach: Partner with healthcare providers and other social service partners who provide screening for the presence of behavioral health conditions to facilitate access to appropriate services;
 2. Early Identification and Screening: Conduct periodic and systematic methods that identify Individuals with behavioral health conditions and potential physical health consequences of behavioral health conditions which consider epidemiological and community factors, as identified in the most recently submitted and approved Local Plan; and

3. Initiation and Engagement: Promote initiation and engagement of Individuals receiving services and supports, which may include but are not limited to:
 - a. Brief motivational counseling; and
 - b. Supportive services to facilitate participation in ongoing treatment.

2. Performance Requirements

SUBRECIPIENT shall:

- a. Provide coordination of care services for Individuals living in residential treatment programs. The coordination of care shall include participation in the residential Provider's treatment planning process and in planning for the Individual's transition to outpatient services;
- b. Comply with Outpatient Services, as described in OAR 309-019-0100 through 309-019-0220, and Community Treatment and Supports, as described in OAR 309-032-0301 through 309-032-0890, as such rules may be revised from time to time; and
- c. Maintain a Certificate of Approval for the delivery of clinical services in accordance with OAR 309-008-0100 through OAR 309-008-1600; as such rules may be revised from time to time.

3. Reporting Requirements

All Individuals receiving MHS 20 Services with funds provided through this Agreement 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/amh/mots/Pages/resource.aspx>, and the Who Reports in MOTS Policy.

SUBRECIPIENT 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 Agreement.

4. Confirmation of Performance and Reporting Requirements

SUBRECIPIENT shall be required to demonstrate through the data properly reported in accordance with the "Reporting Requirements" section above and any reporting requirement contained in Exhibit A, Scope of Work, of this Agreement, how funds provided for MHS 20 Services were utilized consistent with the terms and limitations herein to meet the performance requirement of this Service Description, and that SUBRECIPIENT may be subject to the monitoring and review of performance requirements and quality measures by OHA.

EXHIBIT J INSURANCE

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

1. **Workers Compensation.** SUBRECIPIENT, its subcontractors, if any, and all employers providing work, labor, or materials under this Agreement 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. SUBRECIPIENT 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 Agreement. The policy must provide extending reporting period coverage for claims made within two years after the Agreement 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 **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees.** It shall include contractual liability coverage for the indemnity provided under this Agreement.

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. Subrecipient'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 Agreement.

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

11. Self-insurance. SUBRECIPIENT may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that Subrecipient'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. SUBRECIPIENT shall furnish an acceptable insurance certificate to COUNTY for any insurance coverage required by this Agreement 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. Subrecipient shall furnish evidence of the insurance required in this Agreement. SUBRECIPIENT will maintain the insurance in full force throughout the duration of this Agreement. No Agreement 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 which references "Clackamas County Agreement 20-034" in the certificate description. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to COUNTY. SUBRECIPIENT shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

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

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

BHContracts@clackamas.us

Clackamas County Behavioral Health Division
2051 Kaen Road, Suite #154
Oregon City, OR 97045

- 13. Insurance Carrier Rating.** Coverages provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 14. Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the Work performed under this Agreement.
- 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 SUBRECIPIENT or its insurer(s) to 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.** COUNTY will be entitled to enforce SUBRECIPIENT 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 Agreement as permitted by the Agreement, or pursuing legal action to enforce the insurance requirements. In no event shall COUNTY permit a SUBRECIPIENT to work under this Agreement when COUNTY is aware that SUBRECIPIENT is not in compliance with the insurance requirements.

EXHIBIT K QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT ("BAA")

This Qualified Service Organization Business Associate Agreement ("Agreement") is entered into as of **January 1, 2020** ("Effective Date") by and between **Clackamas County, a political subdivision of the State of Oregon, on behalf of its Health, Housing and Human Services, Behavioral Health Division** ("Covered Entity") 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:

- a. 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.
- b. Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- c. 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,
- d. 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 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.
- 7.5 **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.
- 7.6 **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

Covered Entity

CASCADIA BEHAVIORAL HEALTHCARE,
INC.

CLACKAMAS COUNTY

 10/16/2020
Authorized Signature Date

Richard Swift, Director Date
Health, Housing and Human Services

Derald Walker, PhD / President-CEO

Name / Title (Printed)

November 5, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #1 to Subrecipient Grant Agreement with
Ant Farm, Inc., to Provide CARES Funded
Rent Assistance Services

Purpose/Outcome	Approval of Amendment #1 subrecipient agreement with Ant Farm, Inc., to provide rent assistance to households impacted by the COVID-19 crises.
Dollar Amount and Fiscal Impact	Amendment #1 adds \$690,000, for total agreement amount not to exceed \$1,837,125.
Funding Source	Federal CARES Act Funds through the Master Grant Agreement 19-21, #5084 (H3S#9302), Amendment #3 with Oregon Housing and Community Services. No County General Funds are involved.
Duration	July 1, 2020 to December 30, 2020
Previous Board Action/Review	N/A
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This funding aligns with the Social Services Division's strategic priority to provide housing stabilization and supportive services to people who are homeless or at risk of becoming homeless so they can obtain and maintain permanent housing. 2. This funding aligns with the County's strategic priority to ensure safe, healthy and secure communities.
Counsel Review	The amendment was approved by Counsel on October 29, 2020.
Procurement Review	Was the item processed through Procurement? Yes.
Contact Person	Brenda Durbin, Director – Social Services Division – (503) 655-8641
Contract No.	Subrecipient Grant Agreement 21-003, H3S# 9832

BACKGROUND:

The Social Services Division (SSD) of the Health, Housing and Human Services Department requests the approval of a subrecipient grant agreement to Ant Farm, Inc. to provide additional rent assistance to households impacted by the COVID-19 crises.

Ant Farm, Inc. is the primary youth provider in NE Clackamas County and receives referrals for services for residents of Sandy, Estacada and the surrounding rural areas for housing assistance, money management and other programs. Under this agreement, Ant Farm will receive referrals from Clackamas County's Coordinated Housing Access program to determine eligibility and provide rental assistance payments on behalf of eligible households impacted by the COVID-19 pandemic crises. The Ant Farm has currently already expended the majority of their initial funding and has a lengthy waiting list

Funding for the Agreement is from the Federal CARES Act through Oregon Housing and Community Services' Master Grant Agreement 19-21, #5084 (H3S#9302), Amendment #3. No County General Funds are involved.

The Agreement was approved by Emergency Operations Command, Procurement, and County Counsel.

RECOMMENDATION:

Staff recommends the approval of the Agreement, and that Gary Schmidt, County Administrator, or his designee, be authorized to sign on behalf of Clackamas County.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Richard Swift", with a note in blue ink below it that says "Gary Schmidt, H3S Deputy / For".

Richard Swift, Director
Health, Housing and Human Services Department

Subrecipient Amendment (FY 20-21)
Clackamas County, Department of Health, Housing and Human Services

Subrecipient Agreement Number: 21-003

Board Order Number:

Department/Division: H3S, Social Services Division

Amendment No. 1

Subrecipient: AntFarm

Amendment Requested By: Brenda Durbin

Changes: Scope of Service
 Agreement Time

Agreement Budget
 Other:

Justification for Amendment:

This agreement provides rental assistance during the coronavirus pandemic.

This amendment adds to the maximum compensation to allow Ant Farm, Inc. to serve additional households impacted by the coronavirus pandemic.

Maximum compensation is increased by \$690,000 to a revised value of \$1,837,125. This amendment is effective **upon signature** and continues through **December 30, 2020**.

Except as amended hereby, all other terms and conditions of the contract remain in full force and effect. The County has identified the changes with "***bold/italic***" font for easy reference.

AMEND:

- 4. Grant Funds.** COUNTY's funding for this Agreement is the **CARES Act (Catalogue of Federal Domestic Assistance [CFDA] #: 21.019)** issued to COUNTY by OHCS and the U.S. Department of the Treasury (Master Grant Agreement #5084; Federal Award Identification #[s]: not provided). The maximum, not to exceed, grant amount COUNTY will pay is **\$1,147,125**. This is a cost reimbursement grant with an initial advancement and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Payment Request and Exhibit E: Monthly/ Final Performance Report. Failure to comply with the terms of this Agreement may result in withholding of payment.

TO READ:

- 4. Grant Funds.** COUNTY's funding for this Agreement is the **CARES Act (Catalogue of Federal Domestic Assistance [CFDA] #: 21.019)** issued to COUNTY by OHCS and the U.S. Department of the Treasury (Master Grant Agreement #5084; Federal Award Identification #[s]: not provided). The maximum, not to exceed, grant amount COUNTY will pay is **\$1,837,125**. This is a cost reimbursement grant with an initial advancement and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Payment Request and Exhibit E: Monthly/ Final Performance Report. Failure to comply with the terms of this Agreement may result in withholding of payment.

AMEND:

Exhibit B: Subrecipient Program Budget

SUBRECIPIENT is eligible for an amount not to exceed One Million, One Hundred Forty Seven Thousand and One Hundred Twenty Five Dollars (**\$1,147,125**) from signature of Agreement to December 30, 2020 as specified under the conditions listed in Exhibit A. This amount includes:

\$997,500 for eligible participant expenses

\$149,625 for program delivery (staff salaries, benefits and taxes, not to exceed 15% of eligible participant expenses)

TO READ:

Exhibit B: Subrecipient Program Budget

SUBRECIPIENT is eligible for an amount not to exceed **One Million, Eight Hundred Thirty Seven Thousand and One Hundred Twenty Five Dollars (\$1,837,125)** from signature of Agreement to December 30, 2020 as specified under the conditions listed in Exhibit A. This amount includes:

\$1,597,500 for eligible participant expenses

AntFarm Inc.

Subrecipient Agreement 21-003 – Amendment # 1

Page 3 of 4

\$239,625 for program delivery (staff salaries, benefits and taxes, not to exceed 15% of eligible participant expenses)

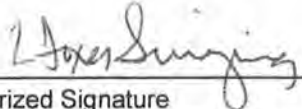
ADD:

Exhibit D: Required Financial Reporting and Reimbursement Requests

G. At Amendment #1 Execution, SUBRECIPIENT shall submit invoices in proper form 14 days after participant payments were issued. COUNTY may require weekly submittal of receipts and backup documentation to align with spend-down of Grant Agreement Funds.

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

SUBRECIPIENT
Ant Farm, Inc.

By: 
Authorized Signature
Two Foxes Singing (Nunpa), Executive Director
10/30/2020
Dated

CLACKAMAS COUNTY

Commissioner: Jim Bernard, Chair
Commissioner: Sonya Fischer
Commissioner: Ken Humberston
Commissioner: Paul Savas
Commissioner: Martha Schrader

Signing on Behalf of the Board:
County Signatures:

Rod Cook, Assistant Director
Health, Housing & Human Services Department

Dated

Recording Secretary

Dated

Approved to Form:

County Counsel

Dated



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 5, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Resolution Declaring the Public Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property for the Bear Creek (Canby Marquam Highway) Bridge Project and Authorizing Good Faith Negotiations and Condemnation Actions

Purpose/Outcomes	Under ORS 35 and the federal Uniform Act, a local government agency is authorized to declare by resolution or ordinance the necessity and the purpose for which the project is required by enacting a Resolution of Necessity prior to initiating acquisition of the easements or other property rights needed from abutters to the project.
Dollar Amount and Fiscal Impact	The right of way budget for the project is estimated to be \$50,800 and is included in the \$454,800 2020/21 fiscal year approved budget. The total amount estimated for this project is \$2,313,800.
Funding Source	\$238,940 of County Road Fund and HB 2017 Fund and ODOT State Grants of \$2,074,860 will be utilized for this project.
Duration	The Resolution remains active throughout the project's duration and terminates upon completion of the project or when all litigation associated with the project is concluded.
Previous Board Action/Review	3/21/19: BCC Approval of Local Agency Agreement No. 33216 with Oregon Department of Transportation for the Canby Marquam Hwy: Bear Creek Bridge #06027. 10/17/19: BCC Approval of Personal Services Contract with David Evans and Associates, Inc. to provide Design Services for the Canby Marquam Highway: Bear Creek Bridge.
Strategic Plan Alignment	-This item supports the DTD Strategic Focus on Safe Roads and Strategic Result of "Travelers on Clackamas County roads will experience roads in good condition." -This item aligns with "Build a Strong Infrastructure" by replacing a functionally obsolete and structurally deficient bridge with a wider structurally sufficient facility ensuring safe transport of equipment and products serving agricultural communities.
Counsel Review	Date of Counsel review: October 21, 2020 SM
Procurement Review	1. <i>Was the item processed through Procurement?</i> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> This item is a resolution of necessity, required under ORS 35 as a precursor in support of possible condemnation action.
Contact Persons	Sharan Hams-LaDuca, DTD Sr. Right of Way Agent @ 503-679-0619 (c)

County Road fund, HB 2017 Fund, and an Oregon Department of Transportation grant will be used to replace a functionally obsolete and structurally deficient bridge that carries the Canby Marquam Highway over Bear Creek. The new bridge will be wider than the existing bridge, and meet current design, safety and functional standards.

In order to construct the improvements as designed, additional rights of way and easements will be required. The project is expected to impact two rural residential properties abutting the project alignment. The Board has authority to exercise the power of eminent domain under ORS Chapter 35 to acquire rights of way, easements, and fee property by purchase or condemnation proceedings. In accordance with the procedure set forth in that statute, a Resolution of Necessity is required before offers are made for needed rights of way and easements.

The project design team has collected and analyzed data sufficient to choose an alternative and advance the design of the project. The project has been planned and located in a manner which is most compatible with the greatest public good and which causes the least private injury. The design has progressed through the Department of Transportation and Development (the "Department") project development procedures and the final legal descriptions required for acquisition of the needed rights of way and easements from two properties affected by the Project have been developed.

The Department shall negotiate in good faith and accordance with all applicable laws, rules, and regulations in an attempt to reach agreement as to the amount of Just Compensation owed each affected property owner. To fairly determine the amount of Just Compensation, staff will utilize the expertise of authorized real estate appraisers and other such experts.

This resolution directs Department staff to proceed with good faith negotiations for the acquisition of the needed property rights and to utilize the expertise of authorized real estate appraisers and other such experts to assist in the acquisition process. The resolution further requires the Director of the Department to notify the Board if the exercise of the power of eminent domain becomes necessary in order to acquire the needed property rights. Only after this process is completed does it authorize the Office of County Counsel to file a Condemnation Action.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approve the Resolution of Necessity and Purpose authorizing the acquisition of necessary rights of way, easements, and fee property by good faith negotiation if possible, or condemnation, if necessary.

Sincerely,

Sharan LaDuca

Sharan LaDuca
Senior Right of Way Agent

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Declaring the Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Actions for the Bear Creek (Canby Marquam Highway) Bridge Project



Resolution No. _____
Page 1 of 2

This matter comes before the Board of County Commissioners of Clackamas County, Oregon (the "Board") at its regularly scheduled meeting on October 27, 2020 and,

It appearing to the Board that the Bear Creek (Canby Marquam Highway) Bridge Project (the "Project") will replace the existing bridge (#06027) which carries the Canby Marquam Highway over Bear Creek; is consistent with the powers and purposes of County government; and is necessary for the continued growth, safety and welfare of the community; and,

It further appearing to the Board that the Project has been planned in accordance with appropriate standards for the improvement of transportation infrastructure such that property damage is minimized, transportation promoted, and travel safeguarded; and

It further appearing to the Board that the Project has been planned and located in a manner which is most compatible with the greatest public good and causes the least private injury; and,

It further appearing to the Board that rights of way, and easements within the boundaries described in the attached Exhibit "A-1", "B-1", "A-2" and "B-2" (the "Exhibits") are a necessary part of the Project, consistent with the powers and purposes of County government, and necessary for the continued growth, safety and welfare of the community; and,

It further appearing that the Board has authority under ORS Chapter 203 and ORS Chapter 35 to acquire rights of way, easements, and fee property by good faith negotiation, agreement, and purchase or by exercise of the power of eminent domain with condemnation proceedings; and

It further appearing that the Board has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public.

NOW, THEREFORE, IT IS HEREBY RESOLVED that this Board declares it necessary and in the public interest that the County Department of Transportation and Development (the "Department"), in connection with this Project, begin the acquisition process, in accordance with all applicable laws, rules, and regulations governing such process, for the necessary rights of way, easements, and fee property, either through good faith negotiation, agreement, and purchase, or, if necessary, by commencement of condemnation proceedings.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Declaring the Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Actions for the Bear Creek (Canby Marquam Highway) Bridge Project



Resolution No. _____

Page 2 of 2

IT IS FURTHER RESOLVED THAT:

1) The Department be authorized to, in good faith, attempt to negotiate agreements of just compensation with owners of affected property identified in the Exhibits. In so doing, the Department is authorized to retain real estate appraisers, negotiators, and other such experts deemed necessary to assist staff with the acquisition process; and,

2). If the Director of the Department (the "Director") determines that changes to the design of the Project, unanticipated field conditions, or the need to accommodate uneconomic remnants makes it necessary or desirable to modify the rights of way, easements, and fee property required for the Project, the Director shall promptly bring before the Board, and the Board shall promptly consider a resolution amending the Exhibits; and,

3). It is the intention of the Board that the required rights of way, easements, and fee property be obtained through good faith negotiation. The Board acknowledges that the exercise of the power of eminent domain may be necessary. The Director of the Department shall inform the Board when the Director deems eminent domain necessary. Thereafter, the Office of County Counsel is authorized to file complaints of condemnation with the circuit court of the County and take such other steps as it determines necessary for the immediate possession of required rights of way, easements, and fee property and the successful litigation of the condemnation action, including the retention of real estate appraisers, experts, and other consultants deemed necessary to the successful conclusion of that litigation.

Dated this _____ day of _____, 2020.

Jim Bernard, Chair

Recording Secretary

Parcel 1 – Permanent Right-of-Way Easement for Road Purposes

A parcel of land lying in the SW1/4NW1/4 of Section 3, Township 5 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, and being a portion of that property described in that Quit Claim Deed to Frederick G. Clayton and Joyce A. Clayton, recorded February 1, 1994 as Document Number 94-08949 of Clackamas County Records; said parcel being that portion of said property included in a strip of land variable in width, lying on the Westerly side of the center line of the Canby-Marquam Highway, which center line is described as follows:

Beginning at Engineer’s Center line Station 00+00.00, said station being the Southwest corner of Section 3, Township 5 South, Range 1 East, Willamette Meridian; thence North 00°18’39” West, a distance of 2457.40 feet; thence on a 572.96 foot radius curve right (the long chord of which bears North 17°48’15” East, a distance of 356.29 feet) 362.30 feet; thence North 35°55’09” East 189.40 feet; thence on a 716.20 foot radius curve left (the long chord of which bears North 10°10’16” East, a distance of 622.25 feet) 643.70 feet; thence North 15°34’37” West 663.50 feet; thence on a 286.48 foot radius curve right (the long chord of which bears North 13°40’23” East, a distance of 279.96 feet) 292.50 feet; thence North 42°55’23” East 154.10; thence on a 358.10 foot radius curve left (the long chord of which bears North 21°10’16” East, a distance of 265.42 feet) 271.90 feet; thence North 00°34’51” West 470.11 feet to Engineer’s Center line Station 55+04.91.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
36+11.00		36+71.00	30.00 feet in a straight line to 59.00 feet
36+71.00		37+15.00	66.50 feet in a straight line to 68.00 feet
37+15.00		37+77.50	68.00 feet in a straight line to 61.00 feet
37+77.50		39+47.00	61.00 feet in a straight line to 37.00 feet
39+47.00		41+00.00	37.00 feet

Bearings are based on the Oregon Coordinate Reference System, Portland Zone, NAD 83 (2011) epoch 2010.00.

This parcel of land contains 8,797 square feet, more or less, outside the existing right of way.

Parcel 2 – Temporary Construction Easement

A parcel of land lying in the SW1/4NW1/4 of Section 3, Township 5 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, and being a portion of that property described in that Quit Claim Deed to Frederick G. Clayton and Joyce A. Clayton, recorded February 1, 1994 as Document Number 94-08949 of Clackamas County Records; said parcel being that portion of said property included in a strip of land variable in width, lying on the Westerly side of the center line of the Canby-Marquam Highway, which center line is described in Parcel 1.

The width in feet of said strip of land is as follows:

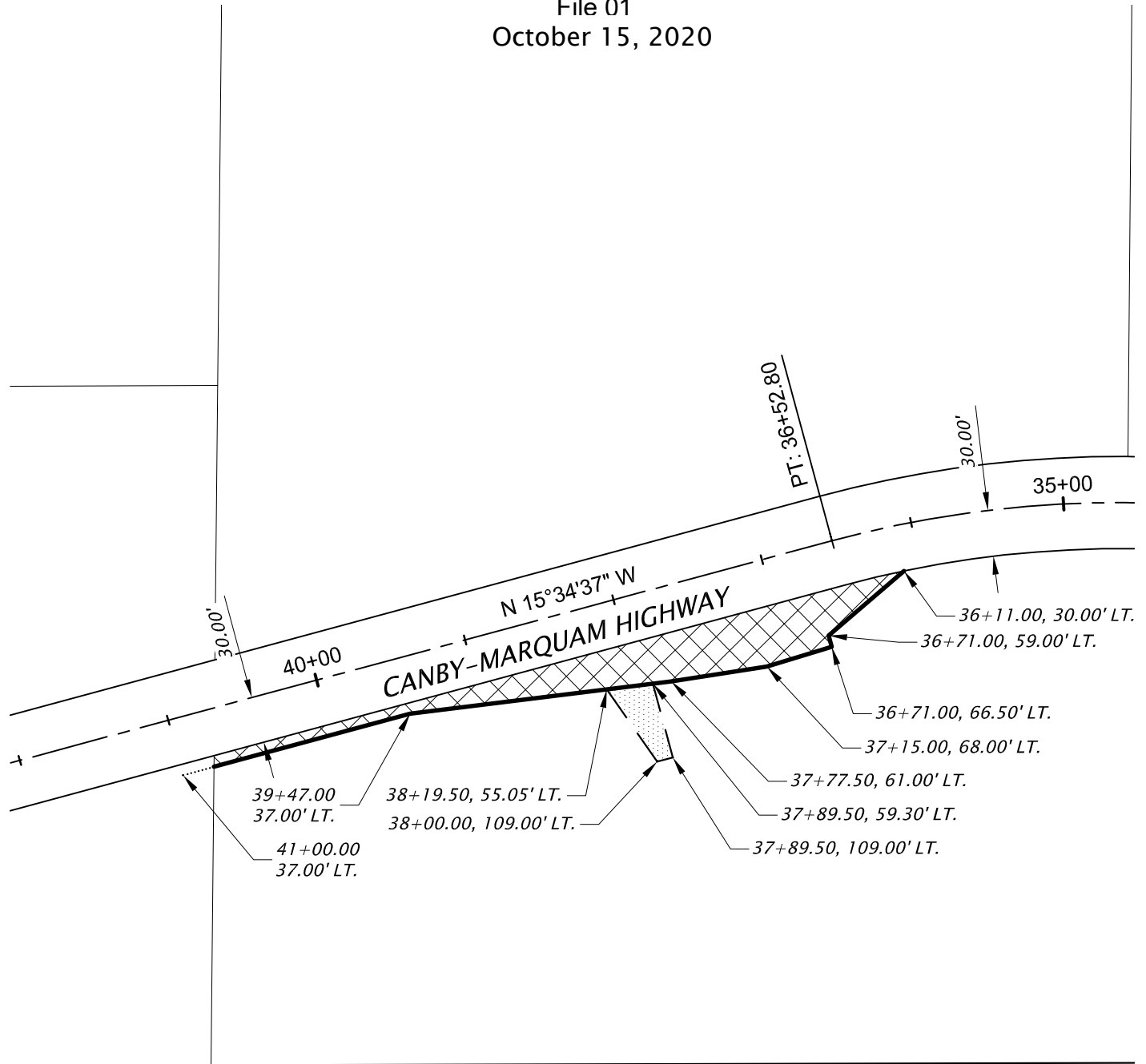
Station	to	Station	Width on Westerly Side of Center Line
37+89.50		38+00.00	109.00 feet
38+00.00		38+19.50	109.00 feet in a straight line to 55.05 feet

EXCEPT therefrom Parcel 1.

This parcel of land contains 1,029 square feet, more or less, outside the existing right of way.

EXHIBIT "B-1"
 Page 1 of 1
 File 01
 October 15, 2020

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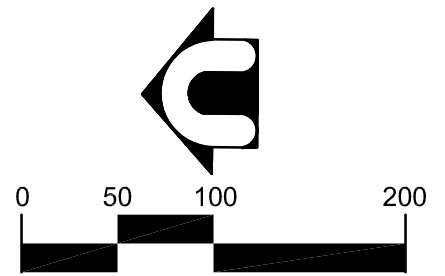
LEGEND :



PARCEL 1, PERMANENT RIGHT-OF-WAY EASEMENT FOR ROAD PURPOSES:
 8,797 SQ. FT. ±, (0.202 AC. ±)



PARCEL 2, TEMPORARY CONSTRUCTION EASEMENT:
 1,029 SQ. FT. ±, (0.024 AC. ±)



CANBY-MARQUAM HIGHWAY



**DAVID EVANS
 AND ASSOCIATES INC.**

2100 S River Parkway, Suite 100
 Portland Oregon 97201
 Phone: 503.223.6663

Parcel 1 – Permanent Right-of-Way Easement for Road Purposes

A parcel of land lying in the SW1/4NW1/4 of Section 3, Township 5 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, and being a portion of that property described in that Statutory Warranty Deed, to Mary E. Kerr, an unmarried person, recorded September 28, 1992 as Document Number 92-60812 of Clackamas County Records; said parcel being that portion of said property included in a strip of land variable in width, lying on the Easterly side of the center line of the Canby-Marquam Highway, which center line is described as follows:

Beginning at Engineer’s Center line Station 00+00.00, said station being the Southwest corner of Section 3, Township 5 South, Range 1 East, Willamette Meridian; thence North 00°18’39” West, a distance of 2457.40 feet; thence on a 572.96 foot radius curve right (the long chord of which bears North 17°48’15” East, a distance of 356.29 feet) 362.30 feet; thence North 35°55’09” East 189.40 feet; thence on a 716.20 foot radius curve left (the long chord of which bears North 10°10’16” East, a distance of 622.25 feet) 643.70 feet; thence North 15°34’37” West 663.50 feet; thence on a 286.48 foot radius curve right (the long chord of which bears North 13°40’23” East, a distance of 279.96 feet) 292.50 feet; thence North 42°55’23” East 154.10; thence on a 358.10 foot radius curve left (the long chord of which bears North 21°10’16” East, a distance of 265.42 feet) 271.90 feet; thence North 00°34’51” West 470.11 feet to Engineer’s Center line Station 55+04.91.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Easterly Side of Center Line
35+99.50		36+24.00	30.00 feet in a straight line to 41.00 feet
36+24.00		36+64.00	41.00 feet in a straight line to 48.00 feet
36+64.00		36+96.00	48.00 feet in a straight line to 47.50 feet
36+96.00		37+17.50	47.50 feet in a straight line to 45.00 feet
37+17.50		37+32.50	45.00 feet in a straight line to 40.00 feet
37+32.50		39+39.00	40.00 feet

Bearings are based on the Oregon Coordinate Reference System, Portland Zone, NAD 83 (2011) epoch 2010.00.

This parcel of land contains 3,903 square feet, more or less, outside the existing right of way.

Parcel 2 – Temporary Construction Easement

A parcel of land lying in the SW1/4NW1/4 of Section 3, Township 5 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, and being a portion of that property described in that Statutory Warranty Deed to Mary E. Kerr, an unmarried person, recorded September 28, 1992 as Document Number 92-60812 of Clackamas County Records; said parcel being that portion of said property included in a strip of land variable in width, lying on the Easterly side of the center line of the Canby-Marquam Highway, which center line is described in Parcel 1.

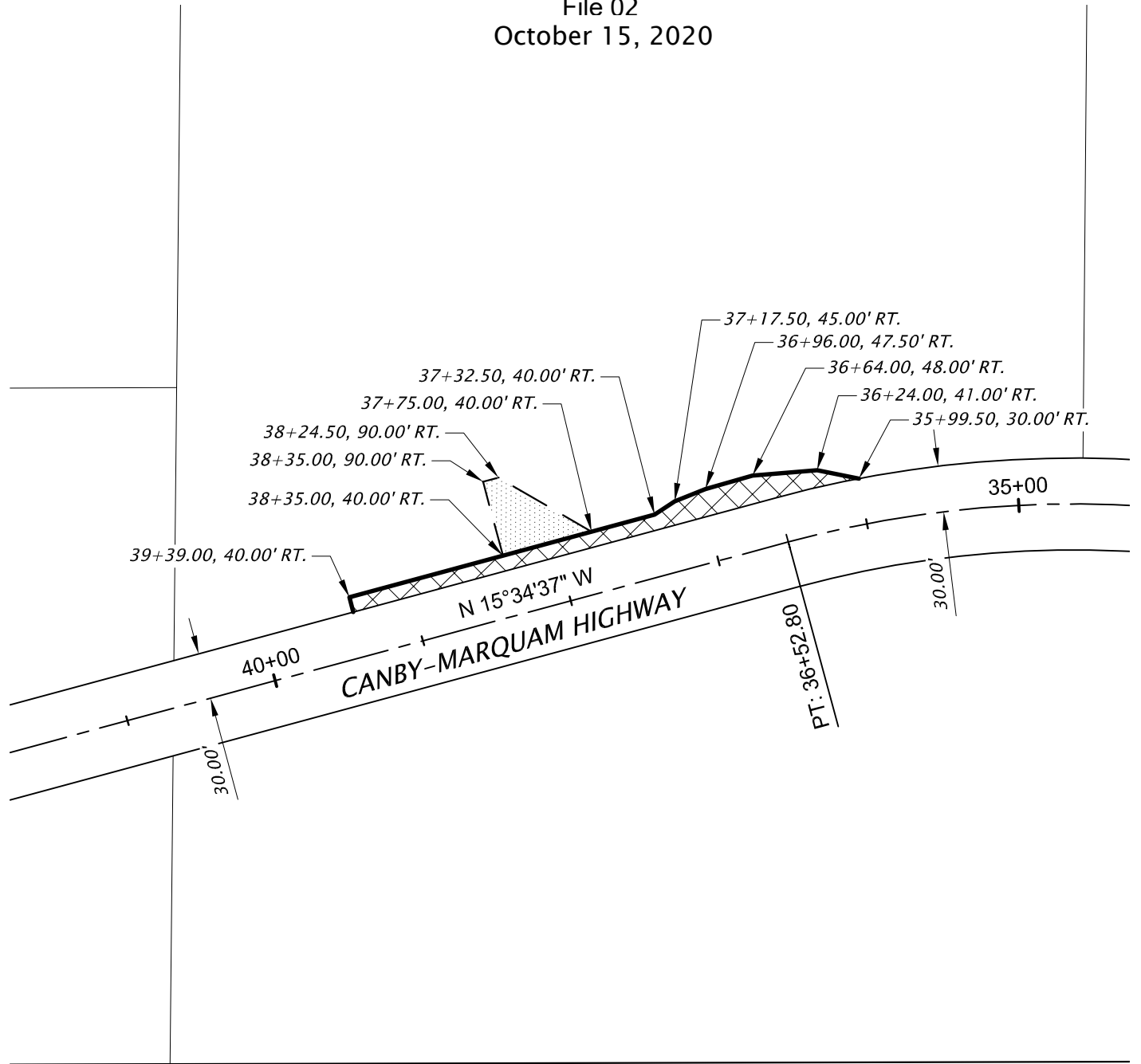
The width in feet of said strip of land is as follows:

Station	to	Station	Width on Easterly Side of Center Line
37+75.00		38+24.50	40.00 feet in a straight line to 90.00 feet
38+24.50		38+35.00	90.00 feet

EXCEPT therefrom Parcel 1.

This parcel of land contains 1,762 square feet, more or less, outside the existing right of way.

EXHIBIT "B-2"
 Page 1 of 1
 File 02
 October 15, 2020



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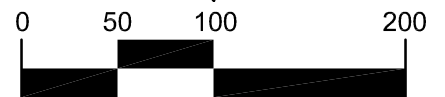
LEGEND :



PARCEL 1, PERMANENT RIGHT-OF-WAY EASEMENT FOR ROAD PURPOSES:
 3,903 SQ. FT. ±, (0.090 AC. ±)



PARCEL 2, TEMPORARY CONSTRUCTION EASEMENT:
 1,762 SQ. FT. ±, (0.040 AC. ±)



CANBY-MARQUAM HIGHWAY



**DAVID EVANS
 AND ASSOCIATES INC.**

2100 S River Parkway, Suite 100
 Portland Oregon 97201
 Phone: 503.223.6663



Elizabeth Comfort
Finance Director

Department of Finance

Public Services Building
2051 Kaen Road, Suite 490 | Oregon City, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Contract with ERP Analysts, Inc. dba ERPA Group for
Chart of Accounts Re-Installation and PeopleSoft Updates

Purpose/Outcome	Chart of Accounts Re-Installation and PeopleSoft Updates
Dollar Amount and Fiscal Impact	Not to exceed \$1,660,000.00. This includes \$960,974 for the initial project and \$699,026 for future integration and on-call consulting/support services.
Funding Source	General Obligation Bond Premiums, General Funds, and Departmental Savings
Duration	November 5, 2020 through November 30, 2025
Previous Board Action	NA
Strategic Plan Alignment	1. Ensure Financial Transparency and Accountability by updating and implementing the chart of accounts so departments can align their budgeting, accounting and reporting with strategic business plans to allow for performance-informed decisions. 2. Builds Public Trust through Good Government by tying the county's budget to results with transparency to the public.
County Counsel Review	October 27, 2020, ARN
Procurement Review	Was the item processed through Procurement? Yes
Contact Person	Christa Bosserman Wolfe, 503-742-5407
Contract No.	3415

Background:

The PeopleSoft Finance and Human Resource systems are the heart of the financial systems for Clackamas County. Since 2000, Finance, Human Resources, and Technology Services have maintained and updated these systems to respond to new program initiatives, legislative mandates, and changing reporting requirements. Critical processes used to support accounting and reporting were constrained by the original construction of the financial chart of accounts structure, which is the foundation of the accounting system.

The ERP (Enterprise Resource Planning) committee, (management from Finance, Human Resources, Technology Services) conducted a business process analysis and identified the current chart of accounts as a major hindrance to the Finance Department's ability to respond and adapt to the County's changing business needs.

Finance determined that implementing a new budget software (OpenGov) without addressing the Chart of Accounts would minimize the effectiveness of the new budget software and hinder the County's ability to use it effectively and efficiently; therefore, a new chart of accounts was implemented in OpenGov.

ERP Analysts, Inc. will provide the needed resources to implement the new chart of account structure in the PeopleSoft Finance and Human Resources systems to align with OpenGov and provide data integration between the systems.



Elizabeth Comfort
Finance Director

Department of Finance

Public Services Building
2051 Kaen Road, Suite 490 | Oregon City, OR 97045

ERP Analysts, Inc. staff will provide project management and technical staff to integrate, customize, convert data, train, document, create reports and distribute software. They will also lead in the implementation of critical accounting modules, such as: Project Costing, Accounts Receivables, and Billing. These changes will allow the Finance Department to have fully functioning ERP and meet the business needs of the County.

Future on-call Consulting Services may include but are not limited to the following projects: configure and implement the Purchasing and Contract Management modules; Capital Asset Management module for calculating depreciation; and PeopleSoft Time & Labor for timesheets to streamline processes and integrate manual activities administered on external systems.

PROCUREMENT PROCESS:

This project was advertised in accordance with ORS and LCRB Rules on July 16, 2020. Proposals were opened on August 27, 2020. The County received fifteen (15) Proposals: Astute Business Solutions, CherryRoad Technologies, Inc., Deloitte & Touche, LLP, DLZP Group, LLC, Elire, Inc., ERP Analysts, Inc., HyperGen, Inc., Isomerous, LLC, Kastech Solutions Group, Metformers, Inc., Sierra-Cedar, Inc., Spear MC, TATA Consultancy Services, The Business and Technology Resource Group, and Tunabear Consulting.

The evaluation team narrowed down the proposals to three highest as CherryRoad Technologies, ERP Analysts, and Spear MC. After oral interviews with these three firms and issuing a Best and Final Offer ("BAFO") request on September 29, 2020, the evaluation committee comprised of nine County personnel scored ERP Analysts, Inc. as the highest.

RECOMMENDATION:

Staff respectfully recommends the Board approve the attached contract for Chart of Account Re-installation and PeopleSoft updates. Thank you.

Sincerely,

Elizabeth Comfort
Finance Director

Placed on the BCC Agenda _____ by Procurement



**CLACKAMAS COUNTY
PERSONAL SERVICES CONTRACT
Contract #3415**

This Personal Services Contract (this “Contract”) is entered into between **ERP Analysts, Inc., dba ERPA Group** (“Contractor”), and Clackamas County, a political subdivision of the State of Oregon (“County”).

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 **November 30, 2025**.
- 2. Scope of Work.** Contractor shall provide the following personal services: Chart of Accounts Re-Installation and PeopleSoft Updates (“Work”) further described in County’s RFP 2020-55 for Chart of Accounts Re-Installation and PeopleSoft Updates as issued July 16, 2020, including all amendments thereto, a copy of which is attached hereto as **Exhibit A** and incorporated by this reference herein, and in Contractor’s Proposal Best and Final Offer (“BAFO”) Fee Schedule, a copy of which is attached hereto as **Exhibit B** and incorporated by this reference herein.
- 3. Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed one million, six hundred and sixty thousand dollars (**\$1,660,000.00**), for accomplishing the Work required by this Contract. Consideration rates are on a time and materials basis in accordance with the rates and costs specified in Exhibit B. The County will pay Contractor for two components of the Work: (1) software implementation as set forth in Exhibits A and B and (2) subsequent on-call general consulting services:
 - a. **Implementation:** County will pay Contractor for the implementation Work, which includes the Work described in Exhibits A and B, including Exhibit B, Option 4.b., in an amount not to exceed **\$960,974.00**. The \$960,974.00 will be paid monthly as the project progresses with the final payment made after the Project Due Dates (defined below).
 - b. **On-Call Consultation:** After the initial project completion, County may pay Contractor on an on-call, as needed basis, in an amount not to exceed **\$699,026.00**, for general consulting services, described further in Exhibit B, at the hourly rate as identified in Exhibit B, Table 1. On-call services will require an agreed upon Statement of Work and fixed fee for the on-call project before Contractor may perform the consultation Work.

If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit B.

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

Invoices shall reference the above Contract Number and be submitted to: **Christa Bosserman Wolfe** via email at: cwolfe@clackamas.us

5. **Travel and Other Expense.** Authorized: Yes No

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

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

7. **Contractor and County Contacts.**

Contractor	County
Administrator: Eric Novak Phone: 614-932-2093 Email: enovak@erpagroup.com	Administrator: Christa Bosserman Wolfe Phone: 503-742-5407 Email: cwolfe@clackamas.us

Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

8. **Contract Dates.**

Time is of the essence for this Contract. Contractor shall complete the implementation all of the Work by July 1, 2021, except for the A/R billing Work that shall be complete by December 31, 2021. (“Project Due Dates”). The Timeline in Exhibit B outlines key milestones by week starting with the Effective Date of this Contract. Implementation is not considered complete until the system is operational by the Project Due Date, as determined by the County in its reasonable administrative discretion.

ARTICLE II.

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

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

to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

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

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

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

- 13. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 14. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 11, 13, 14, 16, 21, 27 and 28 and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.
- 15. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 16. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 17. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 18. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- 19. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the County (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; or (B) if contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.

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

- 20. REMEDIES.** If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the goods and services delivered and accepted by the County, less any setoff to which the County is entitled.
- 21. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 22. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 23. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 24. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by events outside the County or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 25. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 26. PUBLIC CONTRACTING REQUIREMENTS.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, Contractor shall:
 - a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
 - b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
 - c. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.
 - d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
 - e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.

- f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.

27. NO ATTORNEY FEES. In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.

28. 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 a breach of its data security or the 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. KEY PERSONS.** Contractor acknowledges and agrees that a significant reason the County is entering into this Contract is because of the special qualifications of certain Key Persons set forth in the contract. Under this Contract, the County is engaging the expertise, experience, judgment, and personal attention of such Key Persons. Neither Contractor nor any of the Key Persons shall delegate performance of the management powers and responsibilities each such Key Person is required to provide under this Contract to any other employee or agent of the Contractor unless the County provides prior written consent to such delegation. Contractor shall not reassign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the County with such Key Person's services unless the County provides prior written consent to such reassignment or transfer.
- 30. COOPERATIVE CONTRACTING.** Pursuant to ORS 279A.200 to 279A.225, other public agencies may use this Contract resulting from a competitive procurement process unless the Contractor expressly noted in their proposal/quote that the prices and services are available to the County only. The condition of such use by other agencies is that any such agency must make and pursue contact, purchase order, delivery arrangements, and all contractual remedies directly with Contractor; the County accepts no responsibility for performance by either the Contractor or such other agency using this Contract. With such condition, the County consents to such use by any other public agency.
- 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.

SIGNATURE PAGE FOLLOWS

EXHIBIT A
RFP 2020-55 CHART OF ACCOUNTS PEOPLESOFT UPDATES

INCLUDING:

ADDENDUM #1 ISSUED AUGUST 3, 2020

ADDENDUM #2 ISSUED AUGUST 13, 2020

**EXHIBIT B
CONTRACTOR'S PROPOSAL**

BEST AND FINAL OFFER RECEIVED OCTOBER 6, 2020 AND AS REVISED 10-27-2020

ORIGINAL PROPOSAL RECEIVED AUGUST 27, 2020



Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

November 5, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for an Intergovernmental Agreement between Clackamas Broadband
eXchange, City of Portland and Oregon Health & Science University

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for approval for an Intergovernmental Agreement (IGA) with the City of Portland (COP) and Oregon Health & Science University (OHSU).
Dollar Amount and Fiscal Impact	This IGA is an asset swap in that each entity shares existing data resources to benefit the long term goals of each entity. There is no recurring costs associated with this agreement.
Funding Source	The funding source for the expansion of the CBX fiber network will be contributed from the CBX budget.
Duration	Effective upon signature by all parties, the IGA is effective for ten (10) years.
Previous Board Action	Board previously approved CBX to enter into an IGA with the City of Portland for the Sellwood Bridge expansion.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Build a strong infrastructure. 2. This item follows the Board's Key Initiatives of making high speed broadband available throughout the County.
Counsel Review	Andrew Naylor, October 20, 2020
Contact Person	Dave Devore (503)723-4996
Contract No.	N/A

BACKGROUND:

CBX is looking for approval to enter into an IGA with the City of Portland and Oregon Health & Science University. This IGA details an agreement on sharing data network resources that benefit all parties. CBX will be able to complete the connection to Denver Colorado, City of Portland will have fiber connectivity for better City interoperability and Oregon Health & Science University will have redundancy for their existing network.

RECOMMENDATION:

Staff respectfully recommends approval to enter into this fiber agreement with the City of Portland and Oregon Health & Science University. Staff further recommends the Board delegate authority to the Technology Services Director to sign agreements necessary in the performance of this agreement.

Sincerely,

Dave Cummings
CIO Technology Services