

June 15, 2023

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of a Motel/Hotel Services Contract and Settlement and Release Agreement with YKC Hospitality, LLC for 10 hotel rooms and up to 15 additional on-call hotel rooms for temporary housing. Contract value is up to \$1,200,625 for one year. Funding is through Supportive Housing Services Measure funds, Federal Emergency Management Agency and other federal funds. No County General Funds are involved.

Previous Board Action/Review	Briefed at Issues June 13, 2023		
Performance Clackamas	1. Ensure safe, healthy, and secure communities		
Counsel Review	Yes	Procurement Review	Yes
Contact Person	Vahid Brown	Contact Phone	971-334-9870

EXECUTIVE SUMMARY: The Housing & Community Development Division of Clackamas County’s Health, Housing & Human Services Department seeks approval of a Contract and a Settlement and Release Agreement with YKC Hospitality, LCC. The Contract is to provide 10 hotel rooms a night, with up to 15 additional rooms per night on an on-call basis. These rooms will serve multiple County purposes, including, but not limited to, temporary housing for homeless families and individuals, as well as housing to respond to the impacts of natural disasters, emergency events, or other situations wherein Clackamas County residents need temporary housing while partner agencies assist them with obtaining permanent housing.

The County is also entering into a Settlement and Release Agreement with YKC Hospitality, LLC, which was the seller under a previously-canceled agreement to purchase real property.

The County is permitted to directly contract with YKC Hospitality, LLC, under the temporary housing exemption in C-047-0288(7) of the Clackamas County Local Contract Review Board Rules.

For Filing Use Only

Healthy Families. Strong Communities.

The Contract will be funded with Supportive Housing Services Measure funds or FEMA or other federal funds in the event of a declared emergency. No county General Funds are involved.

RECOMMENDATION: Staff respectfully recommends that the Board of County Commissioners approve the execution of the Contract with YKC Hospitality, LCC, to provide on-call hotel rooms. Staff further recommends that the Board of County Commissioners approve the Settlement and Release Agreement with YKC Hospitality, LLC. Staff also recommends that the Board authorize Commissioner Tootie Smith, Chair, or the County Administrator, to sign the agreements on behalf of the County.

Respectfully submitted,

Rodney A. Cook

Rodney A. Cook
Health, Housing & Human Services



MOTEL/HOTEL SERVICES CONTRACT
Cobblestone #8051 H3S #11164

This Motel/Hotel Services Contract (this “Contract”) is entered into between YKC Hospitality, LLC (“Contractor”), and Clackamas County, a political subdivisions of the State of Oregon (“County”) for the purposes of providing hotel rooms at the property described as Quality Inn and located at 9717 SE Sunnyside Rd., Clackamas, OR 97017 ("Premises"). The purpose of this Contract is to provide hotel rooms for multiple County purposes including, but not limited to, temporary housing for homeless families and individuals, as well as housing to respond to the impacts of natural disasters, emergency events, or other situations wherein Clackamas County residents need temporary housing while partner agencies assist them with obtaining permanent housing.

I. TERM

This Contract shall become effective upon signature of both parties and shall remain in effect for one year. This Contract supersedes and cancels any prior contracts, if any, between the parties hereto for similar services.

II. SCOPE OF WORK

Unless this Contract is otherwise terminated according to its terms, County will purchase, and Contractor shall provide, 10 hotel rooms a night during the one-year term of this Contract.

Contractor shall provide an additional 15 hotel rooms on an on-call or as-needed basis for the one-year term of this Contract. Because the exact number of on-call rooms, if any, County will need is unknown, nothing herein shall be construed as a promise by County to purchase all 15 on-call hotel rooms.

Contractor will provide the hotel rooms as further detailed in the Scope of Work attached and hereby incorporated by reference as Exhibit “B.” This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Additional Federal Terms and Conditions Exhibit “A,” and Scope of Work Exhibit “B.”

III. COMPENSATION

1. PAYMENT. County will pay Contractor on a \$125 per hotel room, per night basis.

Per Article IV, Section 10, damages to the Premises is limited to sixty thousand (\$60,000).

The total compensation authorized under this Contract, including all possible damages under Article IV, Section 10, shall not exceed **\$1,200,625**. Because the total compensation includes all potential costs, including on-call hotel rooms and potential damages authorized under Article IV, Section 10, nothing herein shall be construed as a promise to pay Contractor the entire \$1,200,625 authorized under this Contract.

2. TRAVEL EXPENSE REIMBURSEMENT. Authorized: Yes No

If travel expense reimbursement is authorized in this Contract, such expenses shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference, in effect at the time of the expense is incurred.

3. INVOICES. Contractor shall submit invoices for the hotel rooms, including any on-call hotel rooms purchased by County, on a monthly basis. Invoices submitted for payment in connection with this Contract shall be properly documented and shall indicate pertinent County contract and/or purchase order numbers. All charges shall be billed and will be paid net thirty (30) days from receipt of invoice and shall be subject to Oregon Revised Statute (“ORS”) 293.462. 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. Invoices shall be submitted to the Housing & Community Development Division via email to housingservices@clackamas.us.

4. CONTRACTOR AND COUNTY CONTACTS.

Contractor Contract Administrator: Paul Choi Phone: Email: sangmin979@gmail.com	County Contract Administrator: Vahid Brown Phone: 971-334-9870 Email: vbrown@clackamas.us
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IV. CONTRACT PROVISIONS

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of 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 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. Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by the applicable State or Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.
- 5. EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
- 6. GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States

District Court for the District of Oregon.

7. INDEMNITY, RESPONSIBILITY FOR DAMAGES.

- a. **Indemnification and defense of County.** 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 their 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 Contractor's acts or omissions in performing under this Contract.

- b. **Indemnification and Defense of Metro.** The Contractor agrees to indemnify, defend, save, and hold harmless Metro Regional Government ("Metro"), and its officers, elected officials, agents and employees from and against all claims, actions, losses, liabilities, including reasonable attorney and accounting fees, and all expenses incidental to the investigation and defense thereof, arising out of or based upon Contractor's acts or omissions in performing under this Agreement. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of Metro, nor purport to act as legal representative of Metro, without first receiving from the Metro attorney's office authority to act as legal counsel for Metro, nor shall Contractor settle any claim on behalf of Metro without the approval of the Metro attorney's office. Metro may, at its election and expense, assume its own defense and settlement.

8. INDEPENDENT CONTRACTOR STATUS. The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.

9. INSURANCE. Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. The insurance requirement outlined below do not in any way limit the amount of scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

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

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

10. LIMITATION OF LIABILITIES.

- a. Neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- b. Damage to Premises: Damage to the Premises arising from the acts of individuals staying in the rooms at County’s request (“Guest” or “Guests”) is limited to \$60,000 for the entire one-year term of this Contract. County will not be liable for any damage caused by Guests in excess of the \$60,000 provided herein. The reimbursement provided herein is Contractor’s sole remedy against County for the acts or omissions of Guests. County shall pay any verified amounts owed under this subsection within 30 days after written notice from Contractor to County, which obligation shall survive termination of this Agreement.
- c. No Agency. The parties expressly acknowledge and agree that the Guests are not agents, employees, contractors, or subcontractors of County, and that County has no control over the actions of Guests occupying the Premises.
- d. Prior Inspection. Prior to permitting Guests to occupy the Premises, a representative of both Contractor and County will perform a walkthrough of the Premises, including each room that may be occupied by a Guest, for purposes of documenting any preexisting real or personal property damage.
- e. Normal Wear and Tear Excluded. County is not responsible for normal wear and tear caused by Guests’ use of the Premises. The \$60,000 is only intended to cover any theft, removal of personal property or fixtures, or damages caused by Guests.

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 II, Section 4. 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.

Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or County at the address or number set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter

indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any such communication or notice delivered by facsimile shall be deemed to be given when receipt of transmission is generated by the transmitting machine. To be effective against County, such facsimile transmission must be confirmed by telephone notice to County's supervising representative. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

- 12. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (1) Contractor has the power and authority to enter into and perform this Contract; (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the customary standards in the industry or business most closely involved in providing similar goods or services; and (4) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 13. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in the following Sections of Article IV: 1, 6, 7, 10, 12, 13, 14, 16, 19, 20, 21, 25, and 28, and all other terms and conditions which by their context are intended to survive termination of this Contract.
- 14. 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.
- 15. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this section and Sections 1, 7, 8, 12, 15, and 20 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.
- 16. 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.
- 17. 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.
- 18. TERMINATION.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties; (B) by either party for convenience upon thirty (30) days written notice to the non-terminating party, (C) on ten (10) day prior notice any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; (D) if

either party breaches any Contract provision or is declared insolvent, the non-breaching party may terminate after thirty (30) days written notice with an opportunity to cure; or (E) immediately by either party if local, state, or federal laws are modified or interpreted in such a way that performance under this Contract is prohibited.

Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work.

- 19. REMEDIES.** If terminated by the County due to an uncured 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 rooms rented as of the month that the notice of termination was received by Contractor, at the rates set forth in the Contract, less any amounts previously paid and any right of setoff the County may have.
- 20. 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.
- 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 under 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 fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 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. COMPLIANCE.** 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. FURTHER ASSURANCES. Contractor agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to, executing all additional documentation necessary for County to comply with applicable State or Federal funding requirements.

28. FEDERAL CONTRACTING REQUIREMENTS. County intends that all or a portion of the consideration paid to Contractor is eligible for reimbursement by one or more federal agencies including, but not limited to, the Federal Emergency Management Agency. This Contract is subject to the additional terms and conditions, required by federal law for a federal award, set in Exhibit B, attached hereto and incorporated by this reference herein. All terms and conditions required under applicable federal law for a federal award including, but not limited to, 2 C.F.R. § 200.326 and 2 C.F.R. § Pt. 200, App. II, are hereby incorporated by this reference herein.

Contractor shall, as soon as commercially practicable, register itself with the federal System for Award Management (SAM). Information regarding registration with SAM may be found at <https://www.sam.gov>.

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

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

YKC Hospitality, LLC

Clackamas County


Paul Choi (Jun 2, 2023 15:37 PDT)

Jun 2, 2023

Authorized Signature

Date

Chair

Date

Paul Choi

Owner

 Name / Title (Printed)

439197-94


 Oregon Business Registry #

 Recording Secretary

Approved as to Form:

DLLC / Oregon

Entity Type / State of Formation



County Counsel

06/05/2023

Date

EXHIBIT A
ADDITIONAL FEDERAL TERMS AND CONDITIONS

As used herein, "Contractor" means YKC Hospitality, LLC, and "County" means Clackamas County, a political subdivision of the State of Oregon.

The County intends that all or a portion of the consideration paid to Contractor will be eligible for reimbursement by one or more federal agencies including, but not limited to, the Federal Emergency Management Agency ("FEMA"). This Contract is subject to the additional terms and conditions required by federal law for a federal award. All terms and conditions required under applicable federal law for a federal award including, but not limited to, 2 C.F.R. § 200.326 and 2 C.F.R. § Pt. 200, App. II, are hereby incorporated by this reference herein.

Termination. This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor; or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County.

By execution of this Contract, Contractor hereby certifies that it and all subcontractors will comply with (i) all Federal statutes relating nondiscrimination, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis race, color or national origin; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 et seq.), which prohibits discrimination on the basis of sex; the Age Discrimination Act of 1975, as amended (29 U.S.C. §§6101 et seq.), which prohibits discrimination on the basis of age; the Rehabilitation Act of 1973, as amended (29 U.S.C. §§793 et seq.), which prohibits discrimination against requires affirmative action for qualified individuals with disabilities; the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. §§4541 et seq.), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; Title VII of the Civil Rights Act of 1969 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; any other discrimination provisions in the specific statute(s) under which for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply; (ii) will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352 et. seq.), and shall file the required certification if the award is \$100,000 or more; and (iii) will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

If this Contract involves a federal award that meets the definition of a "funding agreement" under 37 CFR § 401.2 (a), and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

If this Agreement is in excess of \$150,000, Contractor certifies that it and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq.

Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include these requirements in all contracts with subcontractors receiving more than \$150,000.

If this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Contract Work Hours and Safety Standards Act 40 USC §§3701 et seq. as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. Contractor shall include and require all providers to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.

Contractor shall comply with 2 CFR 180.220 and 925. These regulations restrict sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs or activities. Contractor is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Contractor may access the Excluded Parties List System at <https://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than E.O. 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award. Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. 180.995) or its affiliates (defined at 2 C.F.R. 180.905) are excluded (defined at 2 C.F.R. 180.940) or disqualified (defined at 2 C.F.R. 180.935). The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction that Contractor enters into. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, then in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

Record Retention. Contractor will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337. Contractor agrees to provide to the County, to the FEMA Administrator, to the Comptroller General of the United States, or to any of their authorized representatives, access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Contractor agrees to provide the FEMA Administrator or the Administrator's authorized representative's access to construction or other work sites pertaining to the Work being completed under the Contract. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

DHS Seal, Logo, and Flags: Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

Compliance with Federal Law, Regulations, and Executive Orders: This is an acknowledgement that FEMA financial assistance may be used to fund this Contract only. Contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.

No Obligation by Federal Government: The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.

Program Fraud and False or Fraudulent Statements or Related Acts: Contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

Contractor will comply with all requirements of 2 CFR 200.321 and 2 CFR 200.216.

Procurement of Recovered Materials (Reference 2 CFR 200.322): Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification, set forth below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Contractor hereby makes the following certification:

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

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

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

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.

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

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

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


Paul Choi (Jun 2, 2023 15:37 PDT)
Signature of Contractor's Authorized Official

Paul Choi **Owner**
Name and Title of Contractor's Authorized Official

Jun 2, 2023
Date

EXHIBIT B SCOPE OF WORK

Service Provider: When County uses the hotel rooms to provide temporary housing to unhoused Guests as part of the County's supportive housing service programs, County may use a third-party service provider ("Service Provider"). The Service Provider will serve as the coordinator. If used, the Service Provider will generally perform the following:

1. Service Provider will provide case management, including securing food, transportation, and other basic services.
2. Service Provider will provide at least weekly check-ins with homeless households residing in the hotel-based shelter.
3. Service Provider will provide interface with hotel owners during occupancy to resolve any misunderstandings or disagreements between Contractor and Guests.
4. Service Provider will accept referrals for hotel-based shelters from the Coordinated Housing Access system, and Clackamas County Emergency Operations Center (if applicable).
5. Service Provider will document and certify eligibility of each adult household member for hotel-based shelter services.

Minimum Services. In providing hotel rooms, regardless of specific purpose for which County is purchasing the rooms, Contractor agrees to provide, at a minimum, the following services:

- Provide hotel rooms in a manner and quality consistent with accordance with the same standards for hotels of similar size, location, and price;
- Regular communications with either the County or its selected Service Provider;
- Regularly provide fresh linens as needed;
- Daily retrieval of garbage;
- Laundry services on site for Guests to wash clothes;
- Regular room maintenance;
- 24/7 phone number for emergencies;
- All commercially reasonable services related to the provision of hotel rooms.

Additional terms and conditions:

Check in / Check out procedures: Service Provider will confirm check-ins and check-outs with the hotel management on a daily basis. Guests shall be required to execute a participant agreement on a form approved by the County prior to being checked in to the Premises.

No Tenancy: Clackamas County is renting these rooms to provide temporary housing. Guests may not establish residency in a shelter and Guests have no property interest in the Premises. The County's program for use of the Premises is not transitional, rental, nor permanent housing, and no tenancy or other exclusive property interest in the Premises, or to any particular room, is established, intended, or expected. Contractor shall complete the attached Declaration of Persons-In-Charge of Property.

Guest issues: Contractor will communicate with County or, if a Service Provider is used, with the County's Services Provider regarding any Guest issues. Contractor and either County or its Service Providers will work in good faith to resolve any issues and concerns.

Following general hotel rules: Guests will be required to follow hotel rules.

Meals/Cooking in the room: There will be no cooking in rooms other than in microwave ovens if those are provided in the rooms.

Guests/overnight visitors: Guests may not have any overnight guests.

Personal belongings in room: Contractor shall permit Guests to have 2 large bags of personal items in the hotel room. Guests may not have pets except for qualified service animals. Contractor may, in its sole discretion, allow Guests to have an emotional support animal, which Contractor will decide on a case-by-case basis.

Phones: Guests may not place any long distance calls from the hotel room phone. Guests may have personal phones.

Cleaning: Contractor will clean and maintain rooms no less than weekly. Any extra ordinary cleaning or damages identified will be reviewed with either County or its Service Provider, and is subject to the limitations of liability provisions set forth in Article IV, Section 10 of the Contract.


Transient Lodging Taxes: The parties do not anticipate transient lodging taxes with be assessed under applicable state or local law. In the event transient lodging taxes are assessed, County will be responsible for payment of the applicable state or local transient lodging tax assessed on rooms rented pursuant to this Contract.

DECLARATION OF PERSONS-IN-CHARGE OF PROPERTY
Relating to ORS 164.205 to 164.270 (Criminal Trespass)

DECLARATION: For purposes of ordering the removal or exclusion of persons from the real property commonly identified as the **Quality Inn** and located at **9717 SE Sunnyside Rd., Clackamas, OR 97017** (“Property”), and for purposes of enforcing criminal trespass and other laws on the Property, the undersigned, as duly authorized representative of the owner of fee title to the Property (“Owner”), does hereby declare that the following are PERSONS IN CHARGE as that term is defined in ORS 164.205(5) for a period of three months from the date of signature below:

1. Any peace officer and any reserve officer as defined by Oregon law.
2. Any director, officer, and manager of Owner; and any employee of Owner on-site at the Property.
3. Any Commissioner, Chair, and Director of Clackamas County (“County”); and any employee of County on-site at the Property.
4. Any director, officer, and manager of a County services contractor operating the Property on behalf of County (“Contractor”); and any employee of Contractor on-site at the Property.
5. Any person providing security services to, for, or in connection with the Property pursuant to a contract with anyone listed in Paragraphs 1–4 above.

IT IS SO DECLARED:

Owner: 
Paul Choi (Jun 2, 2023 15:37 PDT)

Name/Title: Paul Choi Owner

Date: Jun 2, 2023

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims ("Agreement") is entered into between YKC Hospitality, LLC ("YKC") and Clackamas County ("County"), collectively the "Parties."

WHEREAS, on or about December 12, 2022, the Parties entered into a purchase and sale agreement (the "PSA") for the purchase of certain real property described as 9717 SE Sunnyside Road, Clackamas, OR 97015 (the "Property");

WHEREAS, prior to closing, the County reversed its decision to proceed with the purchase of the Property;

WHEREAS, YKC claims it was damaged by the County's decision as a result of unwinding its business in preparation for the closing;

WHEREAS, the County does not believe it has any further liability to YKC other than return of the earnest money, as set forth in the PSA, which has already occurred;

Nevertheless, the Parties wish to resolve this situation as follows:

1. Meaning of Terms.

- (a) As used in this Agreement, "YKC" shall mean YKC and its officers, members, officials, agents, employees, insurers, attorneys, assigns, and anyone claiming through YKC.
- (b) As used in this Agreement, "County" shall mean Clackamas County and current and former commissioners, current and former managers, current and former County Counsel, current and former County Administrators, current and former employees (in their individual and representative capacities), attorneys, insurers, and current and former agents.

2. Consideration.

The Parties also agree and acknowledge that this Agreement is entered into in consideration of the mutual promises and covenants contained herein.

3. Settlement and Release.

The Parties have agreed to enter into a contract ("Room Contract") whereby County will rent certain hotel rooms from YKC.

In consideration for County entering into the Room Contract, and upon execution of the Room Contract, YKC hereby waives, discharges, and releases the County, its insurers, employees, officers, directors, and agents, from all claims, actions, suits, charges, or damages, whether known or unknown, liquidated, fixed, contingent, direct or indirect,

which have been or could have been raised against County which relate in any way to the PSA or the purchase of the Property.

4. No Admission of Liability.

YKC acknowledges this Agreement is a compromise and final settlement of disputed claims. Nothing in the Agreement shall be construed to be or used as an admission of liability, fault, or wrongful, tortious, or unlawful activity by any party. No part of this Agreement shall be admissible in any court or alternative dispute resolution proceeding for the purpose of proving liability, causation, or fault.

5. Covenant Not to Commence Lawsuit or Claim.

The Parties further covenant that they will not commence or bring any lawsuit or claim in the future against the other party as a result of any of the events prior to execution of this Agreement or any act or thing done or omitted to be done by the other party prior to the execution of this Agreement.

6. Integration.

The Parties agree that this Agreement states the entire agreement of the Parties and supersedes all prior and contemporaneous negotiations and agreements, oral or written. Each party expressly acknowledges that the other party did not, directly or indirectly, make any promises, representations, or warranties whatsoever, express or implied, other than those contained in this Agreement. The Parties further agree that this Agreement may be amended only by a subsequent writing signed by the Parties.

7. Severability and Governing Law.

The Parties agree that any provision of this Agreement that is held to be illegal, invalid, or unenforceable under present or future laws shall be fully severable. The Parties further agree that this Agreement shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never been a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, a provision as similar to the illegal, invalid, or unenforceable provision as is possible and legal, valid, and enforceable shall be automatically added to this Agreement in lieu of the illegal, invalid, or unenforceable provision. The Parties also agree that Oregon law shall govern the validity and enforceability of this Agreement.

8. Execution of this Agreement.

This Agreement may be executed in one or more identical counterparts, including facsimile and scanned and electronically transmitted counterparts, each of which shall be deemed an original. All counterparts shall constitute one Agreement, binding on all the Parties, notwithstanding that all of the parties have not signed the same counterpart.

9. Room Contract.

The terms and conditions of this Agreement, including the settlement, release, and covenant not to sue, shall be effective and enforceable even if the Room Contract is subsequently terminated. Nothing in this Agreement shall be construed as a waiver, release, or limitation of any right or remedy the Parties have, or may have, under the Room Contract.

10. Review by Counsel.

The Parties have been given the opportunity to have this Agreement reviewed by counsel. BY SIGNING THIS AGREEMENT, YKC HOSPITALITY, LLC ACKNOWLEDGES that it has carefully read and fully understands all provisions and effects of this Agreement and that the County advised them in writing, by this paragraph, to consult with their own personal attorney before signing this Agreement; that they have had sufficient opportunity to consult with attorney(s) before signing this Agreement; that they are voluntarily entering into this Agreement free of coercion and duress; and that neither the County nor any of their agents or attorneys, has made any representations or promises concerning the terms or effects of this Agreement other than those expressly set forth herein.

11. Representation and Warranty to Execute.

By signing below, the undersigned representative of YKC Hospitality, LLC represents and warrants that they have authority to execute this Agreement on behalf of YKC Hospitality, LLC.

IN WITNESS WHEREOF, the Parties hereto have executed this Settlement Agreement and General Release of Claims on the respective dates set forth below.

YKC Hospitality, LLC

CLACKAMAS COUNTY



Paul Choi (Jun 2, 2023 15:37 PDT)

By: Paul Choi _____

By: _____

Its: Owner _____

Its: _____

Date: 6/2/2023 _____, 2023

Date: _____, 2023







YKC.Hotel Contract.Final

Final Audit Report

2023-06-02

Created:	2023-06-02
By:	Qudsia Sediq (QSediq@clackamas.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAz7j8k4aUqEN5tpVm-uDnH1kW-kasfeLe

"YKC.Hotel Contract.Final" History

-  Document created by Qudsia Sediq (QSediq@clackamas.us)
2023-06-02 - 0:43:14 AM GMT- IP address: 73.37.89.221
-  Document emailed to sangmin979@gmail.com for signature
2023-06-02 - 0:51:06 AM GMT
-  Email viewed by sangmin979@gmail.com
2023-06-02 - 0:59:35 AM GMT- IP address: 66.249.84.67
-  Signer sangmin979@gmail.com entered name at signing as Paul Choi
2023-06-02 - 10:37:35 PM GMT- IP address: 172.56.152.169
-  Document e-signed by Paul Choi (sangmin979@gmail.com)
Signature Date: 2023-06-02 - 10:37:37 PM GMT - Time Source: server- IP address: 172.56.152.169
-  Agreement completed.
2023-06-02 - 10:37:37 PM GMT