

AGENDA

Thursday November 7, 2019 - 10:00 AM **BOARD OF COUNTY COMMISSIONERS**

Beginning Board Order No. 2019-93

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

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

II. 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 a Personal Services Contract with Northwest Housing Alternatives, Inc. for HomeBase Program Operations and Financial Assistance- *Social Services*
2. Approval of Amendment No. 2 to an Agency Service Agreement with Northwest Housing Alternatives, Inc. for System Diversion and Rapid Re-Housing Services - *Social Services*
3. Approval of a Warming Center Site Pilot Project with Do Good Multnomah for Warming Shelter Staffing – *Social Services*
4. Approval to update the Health Resources and Services Administration (HRSA) required co- applicant agreement between the Clackamas County Board of County Commissioner (CCBCC) and the Health Centers Division Community Health Council (CHC) – *Health Centers*

B. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*
2. Approval of FY 2019 – 2020 Local Subrecipient Grant Agreement for the Children’s Center of Clackamas County – *District Attorney*

C. Juvenile Department

1. Approval of Intergovernmental Agreement with the City of Gladstone for the Community Diversion Program Services

D. Disaster Management

1. Approval of FY19 State Homeland Security Grant Program Agreement between Clackamas County and the State of Oregon for Shelter Trailers

E. Business & Community Services

1. Approval of Intergovernmental Agreement between Clackamas County and Oregon Department of Environmental Quality for Clackamas County Illegal Dumpsites No. 047-20

F. Technology Services

1. Approval for Service Level Agreement Amendment No. 2 between Clackamas Broadband eXchange and the City of Wilsonville

III. WATER ENVIRONMENT SERVICES

1. Approval of a Declaration of Covenant of Maintenance, Release and Indemnity Agreement between Water Environment Services and the City of Oregon City

IV. COUNTY ADMINISTRATOR UPDATE

V. 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>

November 7, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Personal Services Contract with
Northwest Housing Alternatives, Inc. for
HomeBase Program Operations and Financial Assistance

Purpose/Outcomes	Agency provides financial assistance and case management to families and individuals who are homeless or at risk of being homeless.
Dollar Amount and Fiscal Impact	\$117,316.47 over the contract term
Funding Source	County General Funds
Duration	July 1, 2019 through June 30, 2020
Previous Board Action	Previous contracts/amendments for the same service were approved on 7-13-17 #071317-A1, 1-11-18 #011118-A2, and 8-16-18 #081618-A6.
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 contract was approved on October 23, 2019.
Contact Person	Brenda Durbin, Director – Social Services Division – (503) 655-8641
Contract No.	9465

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services Department requests approval of a Personal Services Contract with Northwest Housing Alternatives, Inc. (NHA) for HomeBase client financial assistance, program case management and administration. NHA provides financial assistance to families and individuals who are homeless or at risk of being homeless. NHA also provides financial assistance to low income families and individuals to access affordable housing or remain stably housed. Beginning in the 2012/13 fiscal year, the Board of Commissioners awarded NHA \$100,000 per year of County General Funds to support the HomeBase program. These funds have been distributed through the Social Services Division since that time.

Healthy Families. Strong Communities.


November 7, 2019

NHA also receives annual funding to serve HomeBase clients through the special client fund program. The total contract amount for 2019/20 fiscal year for these services is \$117,316.47 of County General Funds, including carryover.

RECOMMENDATION:

Staff recommends the Board approval of this contract and that Richard Swift, H3S Director, or his designee; be authorized to sign on behalf of Clackamas County.

Respectfully submitted,



Richard Swift, H3S Deputy Director/FOA

Richard Swift, Director
Health, Housing and Human Services Department



**CLACKAMAS COUNTY
PERSONAL SERVICES CONTRACT
Contract # 9465**

This Personal Services Contract (this "Contract") is entered into between into between **Northwest Housing Alternatives** ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of the Health, Housing and Human Services Department, Social Services Division.

ARTICLE I.

- 1. Effective Date and Duration.** This Contract shall become effective **July 1, 2019**. Unless earlier terminated or extended, this Contract shall expire on **June 30, 2020**.
- 2. Scope of Work.** Contractor shall provide the following personal services: HomeBase program operations, staffing and financial assistance to eligible residents of Clackamas County, and financial assistance to low income families and individuals through the Special Client Assistance Fund to access affordable housing or remain stably housed ("Work"), further described in **Exhibit A**.
- 3. Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed One Hundred Seventeen Thousand, Three Hundred and Sixteen dollars and Forty-Seven Cents (**\$117,316.47**), for accomplishing the Work required by this Contract. Payments made are on a cost-reimbursement basis for eligible expenditures in accordance with **Exhibit A**. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in **Exhibit A**.
- 4. Invoices and Payments.** Unless otherwise specified, Contractor shall submit monthly invoices for Work performed, as specified in **Exhibit A**.

Charges for eligible services incurred prior to contract execution date, but within contract term are due within 30 days of contract execution date. If CONTRACTOR fails to present invoices in proper form and within thirty (30) calendar days after contract execution date, CONTRACTOR waives any rights to present such invoice thereafter and to receive payment therefor.

Thereafter, if Contractor fails to present invoices in proper form within thirty (30) 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.

- 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: <http://www.clackamas.us/bids/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.
- 6. Contract Documents.** This Contract consists of the following documents, Exhibit A.

7. Contractor and County Contacts.

<p>Contractor</p> <p>Administrator: Peter Tompkins-Rosenblatt, Interim Housing Intervention Services Program Manager</p> <p>Phone: 503/654-1007</p> <p>Email: Rosenblatt@nwhousing.org</p>	<p>County Program Manager</p> <p>Erika Silver Phone: 503/650-5725 Email: ESilver@clackamas.us</p> <p>County Contract Administrator</p> <p>Jessica Diridoni Phone: 503/655-8646 Email: jdiridoni@clackamas.us</p>
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Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor, which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time.
5. **COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
6. **GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States

District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.

- 7. RESPONSIBILITY FOR DAMAGES; INDEMNITY.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall Contractor settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.
- 8. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.
- 9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. 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, Social Services Division, Attn: Jessica Diridoni, 2051 Kaen Road, Oregon City, OR 97045 or jdiridoni@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 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 checked="" 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 21 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 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. If this Contract is terminated prior to completion, and the County is not in default, County, in addition to any other rights provided by this Contract, may require the Contractor to transfer and deliver all partially completed Work Product, reports or documentation that the Contractor has specifically developed or specifically acquired for the performance of this Contract.
- 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 and 21, 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.** A) 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. Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. (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 termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.
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. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person in connection with the Contract as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due Contractor by reason of the Contract.
 - f. 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.
 - g. 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. 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.

Northwest Housing Alternatives

Clackamas County


Authorized Signature

Date

Trell Anderson
Name / Title (Printed)

10/28/19

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

Signing on Behalf of the Board

158977-13
Oregon Business Registry #

Entity Type / State of Formation

Richard Swift, Director
Health, Housing and Human Services

Date

Email: TAnderson@NWHousing.org

Approved as to Form:

EIN: 93-0814473


County Counsel

Date

DUNS #: 180757437

Approved as to Content:


NHA Program Manager Signature

Date

Peter Tompkins-Rosenblatt, Interim Housing Intervention Services Program Manager
NHA Program Manager Name/Title

November 7, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #2 to an Agency Service Agreement with
Northwest Housing Alternatives, Inc. for
System Diversion and Rapid Re-Housing Services

Purpose/Outcomes	Agency will provide system diversion and rapid re-housing services to families and individuals who are homeless or at risk of being homeless.
Dollar Amount and Fiscal Impact	Amendment #2 increases the agreement by \$120,000 to a new total of \$420,000.
Funding Source	State of Oregon Housing and Community Services Department, Emergency Housing Assistance funds. There are no County General Funds required.
Duration	July 1, 2019 through June 30, 2020
Previous Board Action	The original agreement was approved March 29, 2018, item 032918-A1. Amendment #1 was approved February 28, 2019, item 022819-A3.
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 original agreement template was approved in 2017.
Contact Person	Brenda Durbin, Director – Social Services Division – (503) 655-8641
Contract No.	8696

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services Department requests approval of an Amendment to an Agency Service Agreement with Northwest Housing Alternatives, Inc (NHA). The State of Oregon Housing and Community Services Department (OHCS) has approved extending the County's Notice of Funding Opportunity grant awards from FY17-18 into the 19-21 grant biennium.

November 7, 2019

The amendment adds a term of July 1, 2019 to June 30, 2020 and additional Emergency Housing Assistance funds from OHCS. Maximum compensation is increased by \$120,000 for a maximum contract value of \$420,000. There are no County General Funds required.

RECOMMENDATION:

Staff recommends the Board approval of this agreement and that Richard Swift, H3S Director, or his designee; be authorized to sign on behalf of Clackamas County.

Respectfully submitted,

 , H3S deputy director / For

Richard Swift, Director
Health, Housing and Human Services Department

AMEND EXHIBIT A, SCOPE OF WORK AND PERFORMANCE STANDARDS, Section A. General Scope of Services, TO READ:

Agency will comply with the most current valid version of Exhibit F (State Homeless Funds Program Operations Manual) as it applies to Emergency Housing Assistance funds, as amended and updated by OHCS. Current version found at:

<https://www.oregon.gov/ohcs/CRD/hss/State-Operations-Manual-FINAL-01-17-19.pdf>

AGENCY shall administer the program in a manner satisfactory to COUNTY and OHCS in compliance with all program requirements, including but not limited to Exhibit D as amended.

AMEND EXHIBIT A, SCOPE OF WORK AND PERFORMANCE STANDARDS, Section C, #3 Income Eligibility, TO READ:

EHA-provided services require applicants to be low income; i.e., gross household income at or below 80% of area median income. Income includes the current gross income of all adult household members at the time of assessment. Income earned by household members who are minors or full-time students and are not considered heads of household is excluded. While household assets should be identified to determine that a program applicant lacks the resources to obtain or retain permanent housing, they are generally not counted as income. Documentation of income for 30 days prior to the assessment must be kept in the client file. If income statements are not available for 30 days prior to the assessment, client must self-certify the previous 30 days of income.

Area median income annually released by the U.S. Department of Housing and Urban Development shall be used when determining income eligibility.

Convert periodic wages to annual income by multiplying:

- 1. Hourly wages by the number of hours worked per year (2,080 hours for full-time employment with a 40-hour week and no overtime);*
- 2. Weekly wages by 52;*
- 3. Bi-weekly wages (paid every other week) by 26;*
- 4. Semi-monthly wages (paid twice each month) by 24; and*
- 5. Monthly wages by 12.*

To annualize other than full-time income, multiply the wages by the actual number of hours or weeks the person is expected to work.

AMEND EXHIBIT B, REPORTING REQUIREMENTS, Section A. Program Specific Reporting:

A. PROGRAM SPECIFIC REPORTING

1. AGENCY shall comply with current HMIS Policy and Procedures and adhere to all HMIS reporting requirements. AGENCY must perform their own HMIS data entry.

2. AGENCY shall comply with tracking the programs funded through this agreement through separate and distinct providers in HMIS as directed by COUNTY. The name(s) of provider(s) to be used for this agreement will be provided by COUNTY to AGENCY at contract execution. Each funding stream may have its own provider group(s) and AGENCY shall not enter HMIS data from more than one funding stream into one provider group.

3 PROVIDER GROUPS IN HMIS			
HMIS Provider Name	AT RISK	HOMELESS	NHA CHA Mobile Housing Team
State EHA Homeless Categories	2, 3, 4, 5	1, 2, 3	1
Description	Prevention + Problem Solving	Diversion + Rapid Re-Housing	Mobile Housing Team (RRH & Motel)
Questions when determining which provider group to enter client	Direct questions on determining which provider group to enter to COUNTY Program Manager: Erika Silver, esilver@clackamas.us		
Entry/Exit	AGENCY shall Enter and Exit clients if moving between categories when condition/situation changes to demonstrate length of time client has used each provider groups.		
6 month follow-up report	A follow-up assessment will be completed by AGENCY which will report where the client is 6 months after they exit a program. AGENCY will not be required to conduct the 6 month follow-up if client exit dates occur after January 1, 2019.		

3. AGENCY shall ensure that data on all persons served and all activities assisted under this agreement are entered into the applicable community-wide HMIS in the area in which those persons and activities are located, or a comparable database, in accordance with HUD’s standards on participation, data collection, and reporting under a local HMIS. If AGENCY is a victim service provider or a legal services provider, it may use a comparable database that collects client-level data over time (i.e., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS
4. AGENCY shall assure that data entry into HMIS occurs in an accurate and timely manner, within 3 days of program entry date.
5. AGENCY shall maintain and provide to COUNTY as requested information as required by state and federal funding sources for reporting purposes.
6. Supporting documentation must be retained on-site, e.g., service records and sign-in logs.
7. Data Quality. AGENCY must correct data quality, missing information, and null data errors as specified by COUNTY and/or OHCS on or before the 10th of each month, for the preceding month.

A. INVOICING

AGENCY, through designated staff, shall submit to COUNTY 2 monthly invoices that specify all expenditures for each month and the total amount requested based on Exhibit C. The invoices are to include copies of receipts to substantiate the rents, deposits paid and other eligible client assistance. The invoices shall include the contract number and list ‘System Diversion, Homelessness Prevention, and Rapid Re-Housing’ or ‘Rapid-Re-Housing Mobile Housing,’ whichever is appropriate. AGENCY

may use the invoice templates provided in Exhibit E or COUNTY-approved equivalent produced by AGENCY.

Total amount billed for Homelessness Prevention, Rapid Re-Housing, and System Diversion shall not exceed \$240,000 based on Exhibit C.

Total amount billed for Rapid Re-Housing Mobile Housing Team shall not exceed \$60,000 based on Exhibit C.

Invoices and required reports may be submitted electronically via e-mail as an attachment and shall be received by COUNTY on or before the 15th of each month preceding the reporting period.

Invoices and reporting shall be submitted to:
 Clackamas County Social Services Division
 Attn: Jessica Diridoni
 PO Box 2950
 Oregon City, Oregon 97045

Or electronically to: jdiridoni@clackamas.us

Within thirty (30) days after receipt of a correct invoice, provided COUNTY has approved the service specified on the invoice, COUNTY shall pay the amount requested to AGENCY.

TO READ:

B. PROGRAM SPECIFIC REPORTING

1. AGENCY shall comply with current HMIS Policy and Procedures and adhere to all HMIS reporting requirements. AGENCY must perform their own HMIS data entry.
2. AGENCY shall comply with tracking the programs funded through this agreement through separate and distinct providers in HMIS as directed by COUNTY. The name(s) of provider(s) to be used for this agreement will be provided by COUNTY to AGENCY at contract execution. Each funding stream may have its own provider group(s) and AGENCY shall not enter HMIS data from more than one funding stream into one provider group.

3 PROVIDER GROUPS IN HMIS			
HMIS Provider Name	AT RISK	HOMELESS	NHA CHA Mobile Housing Team
State EHA Homeless Categories	2, 3, 4, 5	1, 2, 3	1
Description	Prevention + Problem Solving	Diversion + Rapid Re-Housing	Mobile Housing Team (RRH & Motel)
Questions when determining which provider group to enter client	Direct questions on determining which provider group to enter to COUNTY Program Manager: Erika Silver, esilver@clackamas.us		
Entry/Exit	AGENCY shall Enter and Exit clients if moving between categories when condition/situation changes to demonstrate length of time client has used each provider groups.		
6 month follow-up report	A follow-up assessment will be completed by AGENCY which will report where the client is 6		

	months after they exit a program. AGENCY is required to conduct the follow-up report 6 months after a client's exit date.
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3. AGENCY shall ensure that data on all persons served and all activities assisted under this agreement are entered into the applicable community-wide HMIS in the area in which those persons and activities are located, or a comparable database, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. If AGENCY is a victim service provider or a legal services provider, it may use a comparable database that collects client-level data over time (i.e., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS
4. AGENCY shall assure that data entry into HMIS occurs in an accurate and timely manner, within 3 days of program entry date.
5. AGENCY shall maintain and provide to COUNTY as requested information as required by state and federal funding sources for reporting purposes.
6. Supporting documentation must be retained on-site, e.g., service records and sign-in logs.
7. Data Quality. AGENCY must correct data quality, missing information, and null data errors as specified by COUNTY and/or OHCS on or before the 10th of each month, for the preceding month.

B. INVOICING

AGENCY, through designated staff, shall submit to COUNTY **1 monthly invoice** that specifies all expenditures for each month and the total amount requested based on Exhibit C. The invoices are to include copies of receipts to substantiate the rents, deposits paid and other eligible client assistance. AGENCY shall use the invoice template provided in Exhibit E.

Total amount billed for Homelessness Prevention, Rapid Re-Housing, and System Diversion from March 29, 2018 to June 30, 2019 shall not exceed \$240,000 based on Exhibit C.

Total amount billed for Rapid Re-Housing Mobile Housing Team from January 1, 2019 to June 30, 2019 shall not exceed \$60,000 based on Exhibit C.

Total amount billed for Homelessness Prevention, Rapid Re-Housing, and System Diversion from July 1, 2019 to June 30, 2020 shall not exceed \$120,000 based on Exhibit C.

Invoices, reporting, and required backup documentation containing confidential client information must be submitted using a secure email method:

Clackamas County Social Services Division : caainvoices@clackamas.us

Unless otherwise specified, AGENCY shall submit monthly invoices for Work performed. Charges for eligible services incurred prior to contract execution date, but within Amendment #2 contract term are due within 30 days of contract execution date. If AGENCY fails to present invoices in proper form and within thirty (30) calendar days after contract execution date, AGENCY waives any rights to present such invoice thereafter and to receive payment therefor.

If AGENCY fails to present invoices in proper form and within thirty (30) calendar days after the end of the month in which the services were rendered, AGENCY waives any rights to present such invoice thereafter and to receive payment therefor.

Payments shall be made to AGENCY following the County's review and approval of invoices submitted by AGENCY. AGENCY shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above. The billings shall also include the total amount billed to date by AGENCY prior to the current invoice. Invoice template to be provided to AGENCY by County.

Each invoice shall include a PDF file of the HMIS CoC-APR 2019 canned report for the At Risk & Homeless providers. Each PDF shall be run cumulatively from 7-1-19 to the end of the month, and individually on each provider.

Reimbursement by County will be within thirty (30) days after receipt of a correct invoice with all required backup documentation, reflecting the actual cost to the AGENCY of eligible expenses, the Budget Category each expenditure is to be billed against, and a signed Certification Statement. Provided COUNTY has approved the services specified on the invoice, and the charges are eligible, COUNTY shall pay the amount requested to AGENCY.

AMEND EXHIBIT C BUDGET & OUTPUT:

A. BUDGET

Total maximum compensation under this contract shall not exceed \$300,000.

COUNTY will pay AGENCY on a cost-reimbursement basis for all eligible costs with payments to be made as outlined in Exhibit A, B & C, up to a maximum compensation of \$300,000 EHA funds.

Eligible costs applied to Amendment #1 funds for Rapid Re-Housing Mobile Housing Team shall be from January 1, 2019 to June 30, 2019. Payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, travel expenses, mileage, and incidentals necessary to perform the work and services.

B. ELIGIBLE COSTS

Eligible costs include items below and as listed/amended for EHA in Exhibit F.

- Participant rent
- Participant move-in costs
- Rental application fees
- Utility deposits necessary to establish service
- Other one-time expenditures such as identification that will remove barriers to permanent housing placement or housing stability when no other resources are available.
- Expenditures related to employment or employment training that will support participants to increase their incomes. Examples include work clothes and textbooks for vocational training courses when no other resources are available.
- Personnel salaries, taxes and benefits proportional to time needed to deliver the proposed services, not to exceed the maximum percentage for the corresponding service element.
- Mileage reimbursement at organization's standard rate, not to exceed federal rate, for direct service personnel travel directly related to delivering services in this project, and not to exceed the maximum percentage for the corresponding service element.
- Program expenses
- Client assistance/support (including motel vouchers, supportive services, agency mileage and rental subsidy)

Administrative and/or overhead expenses are NOT eligible costs.

C. OUTCOMES/PERFORMANCE MEASURES

Homeless System Diversion – At least 50 households or 20% of households requesting shelter or homeless housing through the Coordinated Housing Access system, whichever is smaller, are diverted from entering the system.

Homelessness Prevention – At least 80% of households served are permanently housed at exit and of those, 80% retain permanent housing for at least 90 days after the end of subsidy.*

Rapid Re-Housing – At least 60% of households exit to permanent housing and of those, 80% retain permanent housing for at least 90 days after the end of subsidy.*

COUNTY acknowledges that some households may enter services later in the project period and that it may not be possible to complete this measure for all households. The measure applies to those households whose subsidy ends on or before March 31, 2019.

Budget and Output Template
System Diversion, Homelessness Prevention and Rapid Re-Housing

Applicant: Northwest Housing Alternatives
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Budget Summary

Homeless System Diversion Proposed Amount (20%)	\$ 48,000.00
Homelessness Prevention Proposed Project Amount (40%)	\$ 144,300.00
Rapid Re-Housing Proposed Amount (40%)	\$ 47,700.00
Total	\$ 240,000.00

HP adjusted to 60%
 RRH adjusted to 20%

Proposed Project Budget and Output Detail (do not fill in the shaded cells)

Allowable Costs by Element	Amount Requested	Projected Total Households	Projected Total Persons
Homeless System Diversion		26.00	79.00
Participant rent and deposits	\$ 20,400.00		
Other eligible client assistance	\$ 3,600.00		
Personnel & mileage (up to 50% of total)	\$ 24,000.00		
Personnel FTE - enter number of full-time employees	0.24		
Homelessness Prevention		34.00	103.00
Participant rent and deposits	\$ 103,300.00		
Other eligible client assistance	\$ 5,000.00		
Personnel & mileage (up to 25% of total)	\$ 36,000.00		
Personnel FTE - enter number of full-time employees	0.24		
Rapid Re-Housing		9.00	27.00
Participant rent and deposits	\$ 34,500.00		
Other eligible client assistance	\$ 1,200.00		
Personnel & mileage (up to 25% of total)	\$ 12,000.00		
Personnel FTE - enter number of full time employees	0.12		
Grand Total	\$ 240,000.00	69.00	209.00

(Optional) Additional Resources Committed to Project

Service	Value	Source	Cash or In-Kind
Homeless System Diversion	\$ 119,592.00		
Please see Budget Narrative			
Homelessness Prevention	\$ 418,320.00		
Please see Budget Narrative			
Rapid Re-Housing	\$ 655,210.00		
Please see Budget Narrative			
Total	\$ 1,193,122.00		

Budget and Output Template: Rapid Re-Housing, Mobile Housing Team, Amendment #1	Budget
Personnel	\$ 12,106
Participant rent and deposits	\$ 38,421
Client assistance:	
Motel vouchers	\$ 5,000
Support services	\$ 2,301
Program expense	\$ 1,712
Agency Mileage	\$ 460
Total	\$ 60,000
Projected Total Households Served	9
Projected Total Persons Served	27

- Personnel, agency mileage, and program expenses are fixed categories. Flexibility between motel vouchers, support services, and participant rent and deposits categories are allowed with Program Manager approval.

TO READ:

D. BUDGET

Total maximum compensation under this contract shall not exceed **\$420,000**.

COUNTY will pay AGENCY on a cost-reimbursement basis for all eligible costs with payments to be made as outlined in *Exhibit A, B & C*, up to a maximum compensation of **\$420,000** EHA funds as specified below:

Eligible costs applied to original contract term for System Diversion, Homelessness Prevention, and Rapid Re-Housing shall be from March 29, 2018 to June 30, 2019 and shall not exceed \$240,000. Payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, travel expenses, mileage, and incidentals necessary to perform the work and services.

Eligible costs applied to Amendment #1 funds for Rapid Re-Housing Mobile Housing Team shall be from January 1, 2019 to June 30, 2019. Payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, travel expenses, mileage, and incidentals necessary to perform the work and services.

Eligible costs applied to Amendment #2 funds for System Diversion, Homelessness Prevention, and Rapid Re-Housing shall be from July 1, 2019 to June 30, 2020. Payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, travel expenses, mileage, and incidentals necessary to perform the work and services. Administration is allowed, and shall be billed monthly, not to exceed 5% of total monthly charges on invoice submittals, and not to exceed a total amount of \$6,000 in the contract term. Administration is not in addition to grant award.

Administration and Personnel costs shall not be billed without associated client services, but shall be billed each month during the contract term to reflect the monthly time spent serving clients and include associated client support expenses.

Budget Spend Down Requirement. All grant funds, with the exception of administrative allocations, will be spent proportionally to the expenditure period at the rates prescribed below.

Minimum Spending Targets for July 1, 2019 to June 30, 2020:

By September 30, 2019, at least 10% of the funding must be spent

By December 31, 2019, at least 35% of the funding must be spent

By March 31, 2020, at least 70% of the funding must be spent

By May 15, 2020, at least 90% of the funding must be spent

Any spending below the rates above is subject to rescission of program funds which may be reallocated by COUNTY. When spending is below the thresholds described above, and prior to funding rescission, COUNTY and AGENCY will commit to collaborating to find solutions that resolve the issues.

Withholding of Funds. COUNTY may withhold any and all undisbursed grant funds from AGENCY if COUNTY, in its sole discretion, determines that AGENCY has failed to timely satisfy any material obligation arising under this Agreement, including Program & Reporting Requirements. AGENCY obligations include, but are not limited to providing complete, accurate, and timely reports satisfactory to COUNTY about its performance under this Agreement as well as timely satisfying all Program and Reporting Requirements, including timely provision of additional information or explanation of Work costs or performance as may be requested. COUNTY also may withhold any and all requested grant funds from AGENCY if COUNTY, in its sole discretion, determines that the rate or scale of requests for funds in any expenditure category materially deviates from approved budget or is unsubstantiated by required and related back up documentation.

E. ELIGIBLE COSTS

Eligible costs include items below and as listed/amended for EHA in Exhibit F.

- Participant rent
- Participant move-in costs
- Rental application fees
- Utility deposits necessary to establish service
- Other one-time expenditures such as identification that will remove barriers to permanent housing placement or housing stability when no other resources are available.
- Expenditures related to employment or employment training that will support participants to increase their incomes. Examples include work clothes and textbooks for vocational training courses when no other resources are available.
- Personnel salaries, taxes and benefits proportional to time needed to deliver the proposed services, not to exceed the maximum percentage for the corresponding service element.
- Mileage reimbursement at organization's standard rate, not to exceed federal rate, for direct service personnel travel directly related to delivering services in this project, and not to exceed the maximum percentage for the corresponding service element.
- Applies to Amendment #1 only: Program expenses
- Applies to Amendment #1 only: Client assistance/support (including motel vouchers, supportive services, agency mileage and rental subsidy)

Administrative and/or overhead expenses are NOT eligible costs, **except as specified for Amendment #2.**

F. OUTCOMES/PERFORMANCE MEASURES

Homeless System Diversion – At least 50 households or 20% of households requesting shelter or homeless housing through the Coordinated Housing Access system, whichever is smaller, are diverted from entering the system. ***Under Amendment #2 term, at least 10 households will be served with System Diversion funds.***

Homelessness Prevention – At least 80% of households served are permanently housed at exit and of those, 80% retain permanent housing for at least 90 days after the end of subsidy.*

Rapid Re-Housing – At least 60% of households exit to permanent housing and of those, 80% retain permanent housing for at least 90 days after the end of subsidy.* ***Under Amendment #2 term, at least 10 households will be served with Rapid Re-Housing funds.***

COUNTY acknowledges that some households may enter services later in the project period and that it may not be possible to complete this measure for all households. The measure applies to those households whose subsidy ends on or before March 31, 2019. ***Under Amendment #2 term, AGENCY shall complete a follow up report for all clients 6 months after the exit date.***

Original Budget, March 29, 2018 to June 30, 2019

**Budget and Output Template
 System Diversion, Homelessness Prevention and Rapid Re-Housing**

Applicant: Northwest Housing Alternatives
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Budget Summary

Homeless System Diversion Proposed Amount (20%)	\$ 48,000.00
Homelessness Prevention Proposed Project Amount (40%)	\$ 144,300.00
Rapid Re-Housing Proposed Amount (40%)	\$ 47,700.00
Total	\$ 240,000.00

HP adjusted to 60%
 RRR adjusted to 20%

Proposed Project Budget and Output Detail (do not fill in the shaded cells)

Allowable Costs by Element	Amount Requested	Projected Total Households	Projected Total Persons
Homeless System Diversion		26.00	79.00
Participant rent and deposits	\$ 20,400.00		
Other eligible client assistance	\$ 3,600.00		
Personnel & mileage (up to 50% of total)	\$ 24,000.00		
Personnel FTE - enter number of full-time employees	0.24		
Homelessness Prevention		34.00	103.00
Participant rent and deposits	\$ 103,300.00		
Other eligible client assistance	\$ 5,000.00		
Personnel & mileage (up to 25% of total)	\$ 36,000.00		
Personnel FTE - enter number of full-time employees	0.24		
Rapid Re-Housing		9.00	27.00
Participant rent and deposits	\$ 34,500.00		
Other eligible client assistance	\$ 1,200.00		
Personnel & mileage (up to 25% of total)	\$ 12,000.00		
Personnel FTE - enter number of full time employees	0.12		
Grand Total	\$ 240,000.00	69.00	209.00

(Optional) Additional Resources Committed to Project

Service	Value	Source	Cash or In-Kind
Homeless System Diversion	\$ 119,592.00		
Please see Budget Narrative			
Homelessness Prevention	\$ 418,320.00		
Please see Budget Narrative			
Rapid Re-Housing	\$ 655,210.00		
Please see Budget Narrative			
Total	\$ 1,193,122.00		

Budget January 1, 2019 to June 30, 2019

Budget and Output Template: Rapid Re-Housing, Mobile Housing Team, Amendment #1	Budget
Personnel	\$ 12,106
Participant rent and deposits	\$ 38,421
Client assistance:	
Motel vouchers	\$ 5,000
Support services	\$ 2,301
Program expense	\$ 1,712
Agency Mileage	\$ 460
Total	\$ 60,000
Projected Total Households Served	9
Projected Total Persons Served	27

- Personnel, agency mileage, and program expenses are fixed categories. Flexibility between motel vouchers, support services, and participant rent and deposits categories are allowed with Program Manager approval.

Budget July 1, 2019 to June 30, 2020

COUNTY Program Manager may approve adjustments to budget lines.

Allowable Costs by Element	Budget
System Diversion	
Participant rent and deposits	\$ 31,600
Other eligible client assistance	\$ 3,000
Personnel & mileage	\$ 11,400
System Diversion Total	\$ 46,000
Rapid Re-Housing	
Participant rent and deposits	\$ 35,000
Other eligible client assistance	\$ 5,000
Personnel & mileage	\$ 28,000
RRH Total	\$ 68,000
Administration - 5%	\$ 6,000
Total	\$ 120,000

AMEND EXHIBIT D: SPECIAL REQUIREMENTS, TO READ:

AGENCY shall administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:

General:

- 1) AGENCY shall assure that program funds are used only for program services consistent with program requirements.
- 2) AGENCY shall assure that program funds are used to supplement existing funding, to support existing projects or to establish new projects. Program funds may not be used to replace existing funding.
- 3) AGENCY shall ensure that program funds are expended within the time limitations set by OHCS. Program funds not expended within the time period shall be recaptured by COUNTY and OHCS.
- 4) AGENCY shall serve only certified households whose eligibility has been determined in compliance with program requirements.
- 5) AGENCY is responsible to COUNTY & OHCS for any losses resulting from improper or negligent issuance of program funds and shall repay such funds to COUNTY/OHCS within 30 days upon written demand from COUNTY/OHCS.
- 6) Have denial, termination, appeal and fair hearing procedures accessible to program applicants and participants upon request and posted in a public location. Such procedures must satisfy applicable program requirements including assurance that all applicants are informed during the intake interview of their right to appeal. All appeals and fair hearings will be handled by the COUNTY. Denial, termination, appeal and fair hearing procedures, including as implemented, are subject to department review and correction.
- 7) AGENCY may terminate program services to program participants who violate program requirements. Termination, denial and grievance procedures will be clearly communicated to and easily understood by program participants and readily available upon request and posted in a public location.
- 8) Be responsible for maintaining an internal controls framework, satisfactory to COUNTY and OHCS, which assures compliance with program requirements. Written policy and procedures must be established and outlined in local documentation (e.g. staff policy/procedure manuals) inclusive of, but not exclusive to the following areas:
 - a) Assurance that completed applications and household benefits are valid and correct. This includes adequate separation of duties among intake, authorization and fiscal staff.
 - b) Establishment and maintenance of clear policy for cases where there may be a conflict of interest. This includes procedures for staff when employees, board members, friends or family members apply for program services.
 - c) Establishment and maintenance of clear procedures for management of program applicants and participants who may have committed fraud and for dealing with public

complaints regarding potential fraud. All incidents of fraud must be reported to COUNTY and OHCS.

- d) Establishment and maintenance of clear procedures for preventing, detecting and dealing with employee fraud. All incidents of fraud must be reported to OHCS.
-
- 9) Allow COUNTY, OHCS and its representatives access to, and to furnish whatever information and/or documentation COUNTY, OHCS and its representatives determines is necessary or appropriate to conduct reviews and monitor progress or performance to determine conformity with program requirements. AGENCY shall permit COUNTY, OHCS and its representatives to visit its sites to inspect same, and to review, audit, and copy all records COUNTY and OHCS and its representatives deem pertinent to evaluating or enforcing program requirements at any reasonable time, with or without benefit of prior notification. AGENCY shall cooperate fully with COUNTY, OHCS and its representatives.
 - 10) Maintain accurate financial records satisfactory to the department, which document, *inter alia*, the receipt and disbursement of all funds provided through the program by the department; and have an accounting system in place satisfactory to the department, which meets, *inter alia*, generally accepted accounting principles.
 - 11) Maintain other program records satisfactory to the department, which document, *inter alia*, client eligibility requirements, receipt of allowable program services, termination of services and the basis for same, housing and income status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.
 - 12) Provide the COUNTY and OHCS with reports, data, and financial statements, in form and substance satisfactory to the department, as may be required or requested from time to time by the department, which shall be in a format prescribed by the department.
 - 13) Furnish representatives of the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives' access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representative's request.
 - 14) Assure that data collection and reporting, including data entry for program funded activities, be conducted through the use of a COUNTY and OHCS approved HMIS, where applicable by program requirements.
 - 15) Ensure that data collection, entry and reporting occur in an accurate and timely manner as satisfactory to COUNTY and OHCS.

Northwest Housing Alternatives, Inc.

Agency Service Contract # 8696– Amendment # 2

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- 16) Indemnity. Subject to applicable law, Agency shall, defend, save, hold harmless, and indemnify (consistent with ORS Chapter 180) the State of Oregon and OHCS 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 activities of COUNTY, AGENCY, or its officers, employees, Subrecipients, subcontractors, or agents under this Agreement.
- 17) Agency understands and agrees that this agreement is subject to termination upon such a directive to COUNTY by OHCS, and that OHCS shall not be liable to any of the parties of this agreement or to other persons for directing that such agreement be terminated.
- 18) AGENCY shall comply and perform all work to the satisfaction of COUNTY and OHCS, and in accordance with the terms of this agreement, together with applicable program requirements including OAR 813.046 as amended, and ORS 458.600 to 458.650. The approved COUNTY work plan is incorporated herein by reference. The remaining provisions of Section 2B are supplemental to, and do not limit the obligations of AGENCY arising under this Subsection A or otherwise under this agreement.

EHA Fund-specific:

- 19) Expend no more than the funds awarded to AGENCY by COUNTY (including allowable administrative costs shared with COUNTY) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.
- 20) Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care developed coordinated entry requirements and department program requirements.
- 21) Assure that program services are available to extremely low income and very low income households, including but not limited to, veterans, persons more than 65 years of age, disabled persons, farm workers and Native Americans, who meet program eligibility requirements.
- 22) Re-evaluate program participant eligibility and need for homelessness prevention and rapid rehousing services in compliance with program requirements.
- 23) May utilize program funds to address the specific needs of various homeless subpopulations if approved by COUNTY. Specific targeting of funds shall not violate any Fair Housing Act or anti-discriminatory requirements and shall be outlined and approved prior to implementation. Targeting and serving homeless and at risk of homelessness veterans is required for the use of program funds that have been legislatively dedicated to serving veterans.

Program Specific Reporting

- A) AGENCY shall submit to the satisfaction of OHCS all reports as required in this agreement. EHA funds dedicated to veterans must be entered and reported separately from other EHA funded client data.
- B) Reports submitted shall include:
 - 1) COUNTY's Quarterly Provider Reports are due to OHCS 10 days following the end of each fiscal quarter (Oct 10, Jan 10, Apr 10, Jul 10). However, data entry and data quality on reports are due earlier to COUNTY as specified in Exhibit B, Reporting Requirements.

- 2) AGENCY shall provide additional reports as needed or requested by OHCS.
- 3) Those reports and data quality items outlined in Exhibit B.

Performance Measures

- A) AGENCY shall administer the program in a manner consistent with program requirements designed to achieve the following performance goals:
 - 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at time of their exit from the program or project funded by the program.
 - 2) Increased housing stability as measured by the percentage of program participants who reside in permanent housing (those counted in the above performance goal one) and maintain permanent housing for six months from the time of program or project exit.
 - 3) All other outcome measures indicated by OHCS on the EPIC Outcome page of the COUNTY's approved Implementation Plan.

Monitoring of Agency

- A) OHCS & COUNTY Authorized to Monitor AGENCY. OHCS may monitor the activities and records of AGENCY as it deems necessary or appropriate, among other things, to ensure AGENCY complies with the terms of this Agreement, including Program Requirements, and that grant funds are used properly and only for authorized purposes hereunder. OHCS also may monitor the activities and records of AGENCY to ensure that performance goals are achieved as specified in this Agreement, and that performance is to the satisfaction of OHCS. Monitoring activities may include any action deemed necessary or appropriate by OHCS including, but not limited to the following: (1) the review (including copying) from time to time of any and all AGENCY files, records and other information of every type arising from or related to performance under this Agreement; (2) arranging for, performing, and evaluating general and limited scope audits; (3) conducting or arranging for on-site and field visits and inspections; (4) review of AGENCY fiscal and program reports, and requiring appropriate reimbursement request documentation as well as such other information and clarification as it deems appropriate, prior to providing a reimbursement request approval, whether in whole, in part, or otherwise; and (5) evaluating, training, providing technical assistance and enforcing compliance of AGENCY and their officers, employees, agents, contractors and other staff. OHCS may utilize third parties in its monitoring and enforcement activities, including monitoring by peer agencies. OHCS monitoring and enforcement activities may be conducted in person, by telephone and by other means deemed appropriate by OHCS and may be effected through contractors, agents or other authorized representatives. AGENCY consents to such monitoring and enforcement by OHCS and agrees to cooperate fully with same. OHCS reserves the right, at its sole and absolute discretion, to request assistance in monitoring from outside parties including, but not limited to the Oregon Secretary of State, the Attorney General, the federal government, and law enforcement agencies.
- B) AGENCY Shall Fully Cooperate. AGENCY shall fully and timely cooperate with OHCS in the performance of any and all monitoring and enforcement activities. Failure by AGENCY to comply with this requirement is sufficient cause for OHCS to require special conditions, take such other action (including the exercise of available remedies) as it deems appropriate, and may be deemed by OHCS as a material failure by the AGENCY to perform its obligations under this Agreement.
- C) COUNTY Shall Monitor AGENCY. COUNTY shall perform onsite visits to monitor the activities of AGENCY as is reasonable to ensure compliance with (and as necessary under) applicable Program

Requirements or as otherwise directed by OHCS, but in no case less than at least once during Biennium 19-21. The activities of any AGENCY shall be monitored to ensure, *inter alia*, that grant funds are used only for authorized purposes in compliance with this Agreement, including but not limited to specific Program Requirements, and that performance goals are achieved as specified. COUNTY monitoring will include an evaluation of AGENCY'S risk of non-compliance with federal statutes, regulations, and terms and conditions of any applicable subaward for purposes of determining the appropriate level and type of monitoring. Monitoring also must include a review of financial and performance reports, and follow-up on all deficiencies pertaining to any involved federal funding in accordance with 2 CFR 200.331 and other applicable federal regulations, if any. Agency may request COUNTY's 'Agency Policy and Procedures for Monitoring Subrecipients'.

- D) OHCS may review (including copying) from time to time any and all AGENCY files, records, and other information of every type arising from or related to performance under this Agreement. Within 60 days after a review, OHCS will endeavor to communicate in writing to the COUNTY. OHCS may advise COUNTY of any corrective action that it deems appropriate based upon its monitoring activities or otherwise of AGENCY. AGENCY shall timely satisfy such corrective actions as reasonably required by OHCS.

Confidentiality

- A) AGENCY shall protect the confidentiality of all information concerning Clients and other applicants for and recipients of services funded by this Agreement. Neither it nor they shall release or disclose any such information, except as necessary for the administration of the Community Services program(s) funded under this Agreement, as authorized in writing by the Client or other applicant or recipient of such services, or as required by law. All records and files shall be appropriately secured to prevent access by unauthorized persons. AGENCY is required to ensure that all its and their officers, employees and agents are aware of and comply with this confidentiality requirement.
- B) All AGENCY provider and project staff members are expected to comply with the most current local, state and federal laws regarding confidentiality. Information in any form, including in aggregate, shall not be released to any party without the authorization of the individual and/or COUNTY. Client information (including identifying the person as a client) should not be released without written authorization from the client.
- C) AGENCY is required to have a signed agency Release of Information (ROI) form for all clients authorizing the release of information pertinent to determining program eligibility, providing assistance/service, HMIS reporting, and other relevant needs for sharing information. Release forms must be time-limited and specific as to with whom and what information will be shared. Written ROI's must be obtained from all clients to AGENCY and COUNTY (Social Services Division). Oregon Housing & Community Services Department (OHCS) must be routinely listed as an entity with which client information will be shared as it pertains to data collection and monitoring (including third-party adults and reviews).
- D) AGENCY shall ensure that all officers, employees, and agents are aware of and comply with this confidentiality requirement.

Record Retention

- A) AGENCY shall prepare and maintain such records as necessary for performance of and compliance with the terms of this Agreement, which in no event will be less than six (6) years after the termination of this Agreement.

Northwest Housing Alternatives, Inc.

Agency Service Contract # 8696– Amendment # 2

Page 19 of 22

B) Agency shall retain all records pertinent to expenditures incurred under this Agreement and otherwise in a manner consistent with the requirements of state and federal law, including but not limited to those requirements listed in OHCS' Record Retention Schedule, as may be modified from time to time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other action that involves any of the records cited, then such records must be retained until final completion of such matters.

C) AGENCY shall retain all program records pertinent to client services and expenditures incurred in a manner consistent with the requirements of state and federal law. This includes, but is not limited to, those requirements listed in Administrative Rule, Operations Manual and Special Schedules and the OHCS Record Retention Schedule.

Additional Requirements:

- A) Organization must provide services to clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation, disability (as defined under the Americans with Disabilities Act) or any other protected class as defined in applicable state and federal law. Contracted services must reasonably accommodate the cultural, language and other special needs of clients.
- B) AGENCY will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity covered by this contract.
- C) AGENCY will comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60).
- D) Organizations are required to perform Criminal Background checks and propose for approval specific screening criteria for all staff and volunteers who will be performing direct services under this contract. Policies must be in place to disqualify any persons who have committed violent crimes, crimes against children or other crimes that are incompatible with this project. Policies must also be in place to ensure the safety of participants should criminal convictions occur during the term of the project.
- E) AGENCY will establish safeguards to prohibit employees and volunteers from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- F) AGENCY certifies, to the extent required by federal law, that it will provide a drug-free workplace by:
 - (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in AGENCY's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
 - (b) Establishing a drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) AGENCY's policy of maintaining a drug-free workplace;

- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations.
- (c) Making it a requirement that each employee to be engaged in the performance of this contract be given a copy of the statement required by subsection (a) above.
- (d) Notifying the employee in the statement required by subsection (a) that as a condition of employment on such contract, the employee will:
- (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- (e) Notifying the AGENCY within 10 days after receiving notice under subsection (d)(2) from an employee or otherwise receiving actual notice of such conviction.
- (f) Imposing a sanction on, or requiring 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.
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of subsections (a) through (f).
- G) AGENCY certifies to the best of its knowledge and belief that neither it nor any of its principals, officers, directors, or employees:
- (a) Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - (b) Have within a three-year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) above, of this certification; and
 - (d) Have within a three-year period preceding this agreement had one or more public transactions (federal, state or local) terminated for cause or default.
 - (e) Is included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:

<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>

AMEND EXHIBIT E, INVOICE TEMPLATE, TO INCLUDE:

INVOICE
System Diversion, Homelessness Prevention and Rapid Re-Housing

Contractor: Northwest Housing Alternatives	Invoice Date: _____
Address: 13819 SE McLoughlin	Invoice Number: _____
Address: Milwaukie, OR 97222	Service Period: _____
Phone: (503)654-1007	Contract #: 8696
	Amend#2: FY19-20

Clackamas County Social Services Division, Jessica Diridoni, jdiridoni@clackamas.us and
 Submit invoice to: Tamara Hoffmeister, THoffmeister@clackamas.us

Budget Summary		Projected HH For Amend. Term	Projected Persons For Amend. Term
System Diversion	\$ 46,000	10	TBD
Rapid Re-Housing	\$ 68,000	10	TBD
Administration (5% maximum)	\$ 6,000		
Total	\$ 120,000	20	0

Allowable Costs by Element	Budget	Current Invoice Charges	Year-to-Date Charges	Monthly Total Number HH Served	Monthly Total Number Persons	Cumulative Total, from 7-1-19 to end of current month	
						Number of Households Served	Number of Persons Served
System Diversion							
Participant rent and deposits	\$ 31,600						
Other eligible client assistance	\$ 3,000						
Personnel & mileage	\$ 11,400						
System Diversion Total	\$ 46,000	\$ -	\$ -				
Rapid Re-Housing							
Participant rent and deposits	\$ 35,000						
Other eligible client assistance	\$ 5,000						
Personnel & mileage	\$ 28,000						
RRH Total	\$ 68,000	\$ -	\$ -				
Subtotal System Diversion + Rapid ReHousing	\$ -	\$ -	\$ -				
Administration - 5%	\$ 6,000	\$ -	\$ -				
Total	\$ 120,000	\$ -	\$ -	0	0	0	0

Invoice Total: \$ -

CERTIFICATION

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 this contract. 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)

Prepared by: _____	E-mail: _____
Phone: _____	Date: _____
Authorized Signer: _____	

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

AGENCY

NORTHWEST HOUSING ALTERNATIVES, INC.

By: Trell Anderson
Trell Anderson, Executive Director

Date: 0/28/19

13819 SE McLoughlin
Street Address
Milwaukie OR 97222
City / State / Zip
503.654.1007 ext. 107 /
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:

Richard Swift, Director
Health, Housing and Human Services Department

Date _____

COPY

November 7, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Warming Center Site Pilot Project
with Do Good Multnomah for Warming Shelter Staffing

Purpose/Outcomes	Contractor will provide staffing and services for overnight warming centers to un-housed individuals in Clackamas County during periods of extreme cold.
Dollar Amount and Fiscal Impact	Not to exceed \$266,666.
Funding Source	State of Oregon Housing and Community Services, Department, Oregon Housing and Community Services Agency General Funds (SB 5512), and County General Funds.
Duration	November 1, 2019 through April 15, 2020
Previous Board Action	None.
Strategic Plan Alignment	1. This funding aligns with H3S's strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the County's strategic priority to ensure safe, healthy and secure communities.
Counsel Review	Counsel reviewed and approved on October 22, 2019.
Contact Person	Brenda Durbin, Director – Social Services Division – (503) 655-8641
Contract No.	9518

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services Department (H3S) requests approval of a Personal Services Pilot Project with Do Good Multnomah (DGM). H3S has introduced a pilot program this year to meet emergent needs for warming shelters. Under this pilot, Do Good Multnomah will provide staffing to warming shelter sites for shelter operation. DGM will provide staff and services at overnight warming centers to un-housed individuals in Clackamas County during periods of extreme cold. This allowed churches and other facilities to participate in warming shelter without having to process Homeless Management Information System paperwork, bed night reimbursement paperwork, and other administrative responsibilities. It also means that the sites do not have to each mobilize their own volunteer teams to operate shelter on cold nights, since they will be staffed by professional shelter providers.

The agreement is effective November 1, 2019 through April 15, 2020 and funds are available from Oregon Housing and Community Services Department, Oregon Housing and Community Services Agency General Funds (SB 5512).

Healthy Families. Strong Communities.

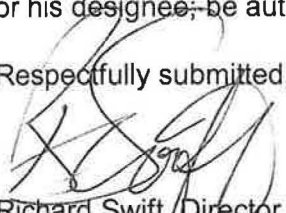
2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

www.clackamas.us

RECOMMENDATION:

Staff recommends the Board approval of this agreement and that Richard Swift, H3S Director, or his designee, be authorized to sign on behalf of Clackamas County.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard Swift', is written over the text 'Respectfully submitted,'.

Richard Swift, Director
Health, Housing and Human Services Department



**CLACKAMAS COUNTY
WARMING CENTER PIOLET PROJECT
H3S Contract # 9518**

This Personal Services Contract (this “Contract”) is entered into between **Do Good Multnomah** (“Contractor”), and Clackamas County, a political subdivision of the State of Oregon (“County”) on behalf of the Health, Housing and Human Services Department, Social Services Division.

ARTICLE I.

1. **Effective Date and Duration.** This Contract shall become effective **November 1, 2019**. Unless earlier terminated or extended, this Contract shall expire on **April 1, 2020**.
2. **Scope of Work.** Contractor shall provide the following personal services: Provide an overnight warming center, and day shelter services to serve un-housed individuals in Clackamas County during periods of extreme cold (“Work”), further described in **Exhibit A**.
3. **Consideration.** The County agrees to pay Contractor, from available and authorized funds, for a total sum not to exceed **Two Hundred Sixty Six Thousand Six Hundred and Sixty Six Dollars (\$266,666)**, for accomplishing the Work required by this Contract. Payments made are on a rate basis for bed nights and day shelter. A minimum total reimbursement for the warming shelter coordinator will not be less than \$17,000. Coordinator activities are listed in Exhibit A.
4. **Invoices and Payments.** Outlined in Exhibit A, Section III Compensation. Example attached in Exhibit C.

Invoices shall reference the above Contract Number and be submitted electronically under a County-approved secure email to: caainvoices@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: <http://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: Exhibit A.

7. Contractor and County Contacts.

Contractor	County
Program Manager: Chris Aisoa Phone: (503) 490-7298 Email: caiosa@dogoodmultnomah.org	Program Manager: Erika Silver Phone: 503/650-5725 Email: ESilver@clackamas.us
Program Manager: Chris Aisoa Phone: (503) 490-7298 Email: caiosa@dogoodmultnomah.org	Contract Administrator: Jessica Diridoni Phone: 503/655-8646 Email: jdiridoni@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.

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. 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. **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, Social Services Division, Attn: Jessica Diridoni, 2051 Kaen Road, Oregon City, OR 97045 or jdiridoni@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 – 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 21 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. 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. If this Contract is terminated prior to completion, and the County is not in default, County, in addition to any other rights provided by this Contract, may require the Contractor to transfer and deliver all partially completed Work Product, reports or documentation that the Contractor has specifically developed or specifically acquired for the performance of this Contract.
- 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 and 21, 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.** A) 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. Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. (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 termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.
- 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.

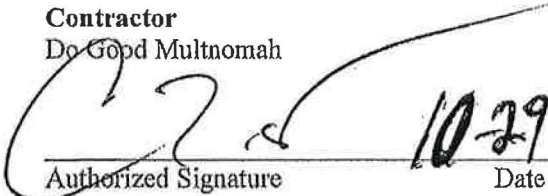
26. **PUBLIC CONTRACTING REQUIREMENTS.** To the extent applicable, Contractor shall comply with ORS 279B.220 through ORS 279B.235.

27. **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.

28. **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.

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

Contractor
Dogood Multnomah


Authorized Signature Date 10-29-19

Chris Aiosa, Executive Director
Name / Title

1110774-91
Oregon Business Registry #

DNP/OR
Entity Type / State of Formation

Email: caiosa@dogoodmultnomah.org

Clackamas County

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

Signing on Behalf of the Board

Richard Swift, Director Date
Health, Housing and Human Services

Approved as to Form:


County Counsel Date 10/22/19

11/7/2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval to update the Health Resources and Services Administration (HRSA) required co-applicant agreement between the Clackamas County Board of County Commissioner (CCBCC) and the Health Centers Division Community Health Council (CHC)

Purpose/Outcomes	To update the HRSA required co-applicant agreement between the Clackamas County BCC and the Clackamas Health Council.
Dollar Amount and Fiscal Impact	\$0.00
Funding Source	Health Resources and Services Administration (HRSA). No County General Funds required.
Duration	Effective upon approval
Previous Board Action	The board last reviewed and approved this co-applicant agreement February 16 th 2017.
Strategic Plan Alignment	1. Improved community safety and health 2. Ensure safe, healthy and secure communities
Council Review	The original agreement was reviewed in 2017
Contact Person	Deborah Cockrell 503-742-5495
Contract No.	Does not apply

BACKGROUND:

The Health Centers Division of the Health, Housing & Human Services Department requests the approval to update the Health Resources and Services Administration (HRSA) required co-applicant agreement between the Clackamas County Board of County Commissioners and the Clackamas Health Council.

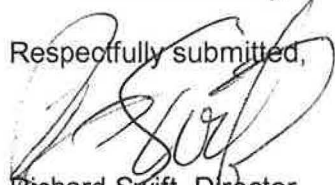
The purpose of the co-applicant agreement is to provide for operation, administration, and provision of Federally Qualified Health Center services in Clackamas County, Oregon. This program works to improve the health of underserved communities and vulnerable populations by assuring continued access to comprehensive, culturally competent, quality health care services.

No County General Funds are involved. This agreement is effective upon approval and terminates on June 30, 2021.

RECOMMENDATION:

Staff recommends the Board approve and authorize Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard Swift', is written over the text 'Respectfully submitted,'.

Richard Swift, Director
Health, Housing & Human Services

COOPERATIVE OPERATIONAL AGREEMENT

This Agreement is entered into this 29th day of October 2019, by Clackamas County ("County"), through its HEALTH CENTERS DIVISION (Division"), and the CLACKAMAS COUNTY COMMUNITY HEALTH COUNCIL "Council"), to provide for operation, administration and provision of certain primary care services in Clackamas County, Oregon.

Preamble

WHEREAS, the County through its Health Centers Division, and the Council will make joint application for a Primary Care Grant to the U.S. Department of Health and Human Services ("HHS") to receive Federally Qualified Health Center (FQHC) status and funding under 5330 of the Public Health Service Act to operate Community Health Centers ("Centers") in Clackamas County; and

WHEREAS, the County is a public entity and retains responsibility for establishing fiscal and personnel policies for the Clackamas County Health Centers Division; and

WHEREAS, the day to day leadership and management of the Clackamas County Health Centers Division rests with County employees under the direction of the Division Director; and

WHEREAS, the Council serves as the consumer majority governing board mandated by the requirements of 5330 of the Public Health Services Act;

NOW THEREFORE, the County wishes to give support to the Council and recognize its functions and responsibilities; and the parties hereby agree:

- (1) Governing Board-The Council is the consumer-majority governing board mandated by HHS to act as the governing board for the 5330 supported Health Centers. The Council shall govern in accordance with the terms of this Agreement, Council Bylaws, and the statutory requirements of the 5330 primary Care Grant (42 U.S.C. 254b) and it's regulations (42 CFR part 51c).
- (2) Grant Application- The County and the Council will make joint application for Primary Care Grants naming the County and the Council as co-applicants and shall approve or disapprove any subsequent Primary Care Grant Applications.
- (3) Operation of the Centers-
 - a) Regulations: The Council shall work to ensure that the Centers are operating in accordance with applicable federal, state, and local laws and regulations.
 - b) Employees: The County will employ employee personnel of the Centers in accordance with the County's personnel policies and procedures, and will be responsible for the payment of wages and benefits. No member of the Council shall be an employee of the Centers.
 - c) Assets: Title to all assets obtained with 5330 Primary Care Grant funds shall be vested in Clackamas County for the use and benefit of the Centers. In the event this Agreement is terminated, the County shall retain the assets or dispose of them as directed by the federal agency administering the 5330 program

- d) Operations Policies: The Council shall adopt policies for the Centers regarding the scope and availability of services, hours of services and quality of care assurance procedures
 - e) Financial Plan and Budget: The Council shall participate in planning, reviewing and approving the Center's financial plan for each fiscal year. All changes to the Centers Community Health Council approved and submitted budget must be approved by the Council. No disbursement shall be made other than as set forth in the budget without prior approval of the Council and the Board of County Commissioners.
 - f) Records: The council shall make its records available for inspection at all reasonable times upon request by the County or funding agencies or their duly authorized agents or representatives.
 - g) Financial Reports: The County shall be responsible for maintaining financial records of the Centers and making reports as required by the S330 program. County will copy Council with reports
 - h) Fee Policies: The Council shall participate in establishing the schedules for Center fees and discounts in accordance with S330 statutory requirements
 - i) Evaluation: The Council shall participate in planning and evaluating Centers service utilization, productivity, patient satisfaction, and achievement of project objectives.
 - j) Patient Grievances: The Council shall participate in adopting procedures for resolving patient grievances.
 - k) Council Minutes: The Council shall hold regularly scheduled meetings, at least once each month, for which minutes shall be kept.
- (4) Executive Director-The Executive Director of the Clackamas County Health Centers Division shall report to the Director of the Clackamas County Health, Housing and Human Services Department and the Council. The Executive Director shall be a non-voting, ex-officio member of the Council, notwithstanding section {3}(b) of this Agreement. The Council shall participate in the selection, evaluation and dismissal of the Executive Director in accordance with established County criteria, personnel policies and the Primary Care Grant.
- (5) Council Bylaws-The Council shall adopt Bylaws for its governance. If such bylaws are inconsistent or in opposition to established County policies and procedures, County and Council shall work to develop mutually agreeable solutions.
- (6) Termination-If for any reason the Centers no longer operates as an FQHC, this Agreement shall terminate. Either party may terminate this Agreement upon 60 days written notice to the other; a copy of any notice of termination shall be provided to HHS.
- (7) Organizational Changes-In the event the Clackamas County Health Centers division is reorganized or merged with another County department the Council shall continue to meet its purpose and responsibilities in cooperation with the new County organization operating the program supported with S330 funds, and also immediately amend its Bylaws as needed to meet its responsibilities.

- (8) Sole Agreement-This Agreement contains the entire agreement of the parties and their rights, duties, and their obligations to each other. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations or agreements, either written or verbal between the parties.
- (9) Disputes-The parties will use their best efforts to carry out the terms of this Agreement in a spirit of cooperation and will attempt to resolve any disputes by negotiation.
- (10) Written Changes Only-No modification of the Agreement or attempted waiver of its provisions shall be valid unless in writing and signed by the party against whom the same is sought to be enforced.
- (11) Choice of Laws-This agreement shall be constructed in accordance with laws of the State of Oregon.
- (12) Notice-Any notice provided by this Agreement shall be in writing and will be deemed personally delivered upon written receipt of the part to whom it is addressed, or upon its deposit in the United States Mail, first class postage prepaid and addressed/

If to the County:

Clackamas County Health Centers Division, Director
2051 Kaen Road
Oregon City, Oregon 97045

If to the Council:

Clackamas County Community Health Council, President
2051 Kaen Road
Oregon City, Oregon 97045

- (13) Waiver of Breach- Waiver by any party to this Agreement of any breach of any provision by any other party shall not operate or be construed as a waiver by such party of any subsequent breach, whether such breach is of the same provision or different provision.
- (14) Severability-If any provision of this Agreement or the application of such provision to any person or circumstance is declared invalid, the remaining provisions of this Agreement, and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected.

(15) Captions-Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision.

Signature follows:

WITNESS the signatures of the undersigned as of the date written,

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

By: _____

Chair

Date

Clackamas Health Council

By: _____

President

Date

DRAFT

Approval of Previous Business Meeting Minutes:
September 26, 2019

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

A complete video copy and packet including staff reports of this meeting can be viewed at

<https://www.clackamas.us/meetings/bcc/business>

Thursday, September 26, 2019 – 10:00 AM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

PRESENT: Commissioner Sonya Fischer, Serving as Chair
Commissioner Ken Humberston
Commissioner Jim Bernard – via phone
Commissioner Martha Schrader – via phone

EXCUSED: Commissioner Paul Savas

CALL TO ORDER

■ Roll Call

Commissioner Savas is out of the office and will not be in attendance today. Commissioners Bernard and Schrader will participate in today's Business meeting via phone.

Commissioner Fischer will serve as Chair for today's meeting

■ Pledge of Allegiance

I. CITIZEN COMMUNICATION

<https://www.clackamas.us/meetings/bcc/business>

1. Nancy Eichsteadt, Gladstone — supports the Opsi contract - comments regarding the Gladstone Library.
2. Doug Jones, Oak Grove – supports Opsi contract for the libraries.
3. Ron Campbell, Oak Grove - supports Opsi contract for the libraries.
4. Grover Bornefeld, Jennings Lodge – supports the Opsi contract for libraries.
5. Brainard Brauer, Oregon City – radar feedback signs on Redland Road, and using OLCC model for tobacco retail licensing.

~Board Discussion~ including questions to Greg Williams, Deputy BCS Director regarding the Opsi contact. <https://www.clackamas.us/meetings/bcc/business>

II. CONSENT AGENDA

Chair Fischer asked the Clerk to read the consent agenda by title, then asked for a motion.

MOTION:

Commissioner Humberston: I move we approve the consent agenda.

Commissioner Bernard: Second.

all those in favor/opposed:

Commissioner Humberston: Aye.

Commissioner Schrader: Aye.

Commissioner Bernard: Aye.

Chair Fischer: Aye – the Ayes have it, the motion carries 4-0.

A. Health, Housing & Human Services

1. Approval of Agreement No. 18609 with Ride Connection, Inc. to Provide Funding for non-Emergency Medical Rides Provided by Social Services, Transportation Reaching People – *Social Services*
2. Approval of Agreement No. 18608 with Ride Connection, Inc. to Provide Funding for Dedicated Dialysis Rides Provided by Social Services, Transportation Reaching People – *Social Services*

3. Approval of Agreement No. 8598 (Urban) & No. 18599 (Rural) with Ride Connection, Inc. to Provide Funding for Vehicle Maintenance of Ride Connection owned Vehicles Operated by both Urban & Rural Community-based Clackamas County Transportation Consortium Members – *Social Services*
4. Approval of Inter-Agency Agreement with Clackamas County Health Centers Division for School Based Health Centers (SBHC) – Building Mental Health Services Capacity – *Public Centers*
5. Approval of Amendment No. 2 to the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority for Operation as Local Public Health Authority for Clackamas County – *Public Health*
6. Approval of a Service Agreement No. 1770 with Henry Schein for Pediatric Dental Services at the new Gladstone Dental Clinic – *Health Centers via Procurement*
7. Approval of an Amendment to the HOME Loan Agreement with River Glen Renewal Associates, LLC to Rehabilitate the River Glen Apartments in Gladstone – *Community Development*

B. Department of Transportation & Development

1. Approval of a Contract with Kittelson & Associates, Inc. for Design Services for South Ivy Street Pedestrian Intersection Improvements - *Procurement*
2. Approval of a Contract with CivilWorks NW, Inc. for the Aldercrest Road Slide Repair Project - *Procurement*

C Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*
2. Request by the Clackamas County Sheriff's Office to Enter into an Annual Operating Plan and financial Plan with the Oregon State Marine Board for the Clackamas County Boating Safety Action Plan - *CCSO*

D Juvenile Department

1. Approval to Accept the Grant Award and Sign the Grant Agreement for the Oregon Criminal Justice Commission Specialty Court Grant Program

E Disaster Management

1. Approval of Memorandum of Agreement between Clackamas County and the Lake Oswego School District for Emergency/Disaster Related Use of Lake Oswego and Lakeridge High Schools

F. Business & Community Services

1. Approval of a Contract with Opsis Architecture, LLP for the Oak Lodge and Gladstone Community Project - *Procurement*

III. WATER ENVIRONMENT SERVICES

1. Approval of a Contract with Pearce Moody Construction Company, LLC for the Sierra Case – West Storm Main Contemporaneous Development - *Procurement*
-

Chair Fischer invited Greg Geist, Water Environment Services Director, to speak about Eric Holfeld. Eric has been a volunteer in Clackamas County for over 13 years. He will be moving out of the County and we want to acknowledge and honor Eric for his dedication and service to Clackamas County and its citizens.

IV. COUNTY ADMINISTRATOR UPDATE - NONE

V. COMMISSIONERS COMMUNICATION - NONE

MEETING ADJOURNED – 10:36 AM

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>



John S. Foote, District Attorney for Clackamas County

Clackamas County Courthouse, 807 Main Street, Room 7, Oregon City, Oregon 97045
503 655-8431, FAX 503 650-8943, www.co.clackamas.or.us/da/

November 7, 2019

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of

FY 2019 – 2020 Local Subrecipient Grant Agreement for the Children’s Center of Clackamas County

Purpose/Outcomes	To benefit child abuse victims and their families by providing medical diagnosis and treatment recommendations within Clackamas County and provide law enforcement with necessary information to allow for prosecution.
Dollar Amount and Fiscal Impact	The County will receive \$420,000 from the State of Oregon for child abuse multidisciplinary intervention and these funds will be passed through to the Children’s Center. In addition, the District Attorney has appropriated \$80,000 from the 19-20 budget to be dedicated to the Children’s Center.
Funding Source	State of Oregon, acting by and through OR Dept of Justice and County General Fund.
Duration	Effective July 1, 2019 through June 30, 2020.
Previous Board Action/Review	9/06/18, Item D.2: BCC approved Subrecipient agreement amendment for one year between Clackamas County and The Children’s Center of Clackamas County.
Strategic Plan Alignment	Ensure safe, healthy, and secure communities for children.
Contact Person	Bob Willson, Mgmt. Analyst 2 – District Attorney’s Office – 503-650-3011

BACKGROUND:

Since 2005, Clackamas County has received funding from the State of Oregon for Child Abuse Multi-Disciplinary Intervention (CAMI). These funds are directed by the Clackamas County MDT to the Children’s Center, the County’s designated medical provider for child abuse, who responds to all child abuse referrals from Clackamas County agencies, mandatory reporters, and families.

The Children’s Center is a partner in Clackamas County’s response to child abuse, intervention, prevention, and prosecution. The Children’s Center provides complete medical assessments, including complete physical examinations and videotaped interviews by trained professionals, to children suspected to be victims of abuse or neglect. Children are referred to the Children’s Center from law enforcement agencies, child protective workers, parents, teachers, doctors, and others concerned for the welfare of the child. The Children’s Center also provides law enforcement and prosecution with necessary information to proceed with prosecution and ensures that staff will be available to appear in judicial proceedings. The Children’s Center also provides mental health crisis intervention and referral, support, education, and case management for families in Clackamas County struggling with issues of abuse or neglect.

RECOMMENDATION:

I respectfully recommend that the Board approve the attached subrecipient grant agreement between Clackamas County and the Children’s Center of Clackamas County as submitted.

Respectfully submitted,

John S. Foote

CLACKAMAS COUNTY, OREGON LOCAL SUBRECIPIENT GRANT AGREEMENT CAMI-RSP-2019-ClackamasCo-001	
Program Name: Clackamas County CAMI MDT Program/Project Number:	
This Agreement is between Clackamas County, Oregon , acting by and through its District Attorney’s Office and The Children’s Center of Clackamas County , an Oregon Non-profit Organization.	
COUNTY Data	
Grant Accountant: Bouavieng Bounnam	Program Manager: Joan Radonich
Clackamas County Dept. of Finance 2051 Kaen Rd. Oregon City, OR 97045 (503) 742-5422 BBounnam@co.clackamas.or.us	Clackamas County District Attorney 807 Main Street, Rm 7 Oregon City, OR 97045 (503) 655-8431 Jprc5@comcast.net
SUBRECIPIENT Data	
Finance/Fiscal Representative: Leslie Everson, Controller	Program Representative: Amanda Bennett, Administrative Director
The Children’s Center 1713 Penn Lane Oregon City, OR 97045 (503) 655-7725 leslie@childrenscenter.cc	The Children’s Center 1713 Penn Lane Oregon City, OR 97045 (503) 655-7725 amandab@childrenscenter.cc
FEIN: 75-3027143	

RECITALS

Oregon law (ORS 418.746-418.796) requires that every county utilize a multidisciplinary approach to child abuse intervention. In 1989, the law specified that every county create a multidisciplinary team (“MDT”) that is coordinated through each county’s District Attorney’s office. The legislature recognized then, as it does still today, that identifying and responding to child abuse is complicated and thus requires complex collaboration and consistent team work in order to address child abuse situations adequately.

1. In 1993, the Oregon Legislature established the Child Abuse Multidisciplinary Intervention (“CAMI”) Program. The CAMI Program provides funding to counties for the development and ongoing support of community child abuse intervention centers (ORS 418.790 through 418.792), and for the development and maintenance of child abuse multidisciplinary teams (ORS 418.746 through 418.747). CAMI Program grant funds come from the Criminal Fines and Assessment Account Public Safety Fund (“CFAA”). CFAA funds come from fines assessed on persons convicted of a crime, violation, or infraction by justice, municipal, district, circuit and juvenile courts.
2. The Children’s Center (“SUBRECIPIENT”) is a partner in Clackamas County’s (“COUNTY”) response to child abuse, intervention, prevention and prosecution. SUBRECIPIENT provides complete medical assessments, including complete physical examinations and videotaped interviews by trained professionals, to children suspected to be victims of abuse or neglect. Children are referred to the Children’s Center from law enforcement agencies, child protective workers, parents, teachers, doctors

and others concerned for the welfare of the child. SUBRECIPIENT also provides law enforcement and prosecution with necessary information to proceed with prosecution and ensures that staff will be available to appear in judicial proceedings. SUBRECIPIENT also provides mental health crisis intervention and referral, support, education and case management for families in Clackamas County struggling with issues of abuse or neglect.

3. COUNTY received \$471,493 from State of Oregon for fiscal 19-20 for Child Abuse Multi-Disciplinary Intervention (CAMI). Of these funds, \$420,000 are directed by the Clackamas County CAMI MDT to the SUBRECIPIENT, the county's designated medical provider for child abuse, who responds to all child abuse referrals from Clackamas County agencies, mandatory reporters and families.
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 "Agreement") the COUNTY and SUBSUBRECIPIENT 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 **July 1, 2019** and not later than **June 30, 2020**, 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 Attached Exhibit A: SUBRECIPIENT Statement of Program Objectives. 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 Oregon Department of Justice's Child Abuse Multidisciplinary Intervention Intergovernmental Grant Agreement 2019-2021 that is the source of the grant funding, in addition to compliance with the statutory requirements stated in ORS 418.746.
4. **Grant Funds.** COUNTY's funding for this Agreement is the CAMI-MDT-2019-ClackamasCo.DAVAP-00017 issued to the COUNTY by the State of Oregon, Department of Justice through their CAMI program and Clackamas County General funds through the District Attorney's Office. The maximum, not to exceed, grant amount that the COUNTY will pay is **\$500,000**.
 - 4.1. **State Funds: \$420,000** in state funds are provided by the State of Oregon, Department of Justice through their CAMI program.
 - 4.2. **Other Funds: \$80,000** in county general funds are provided through the District Attorney's budget.
5. **Disbursements.** Grant funds will be disbursed in after-the-fact, equal quarterly installments as outlined in Exhibit D: Request for Reimbursement.
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**

the 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. **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 the COUNTY receiving appropriations or other expenditure authority sufficient to allow the COUNTY, in the exercise of its reasonable 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 this agreement.
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 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 the County within 15 days.
 - c) **Allowable Uses of Funds.** SUBRECIPIENT shall use funds only for those purposes authorized in this Agreement and in accordance with OAR 137-082-0220 (2) states that CAMI funds may be used for Assessment Services, Advocacy Services, Treatment Services, and Eligible Expenses. In accordance with ORS 418.746 (2) the RECIPIENT shall not use the grant funds to replace funds previously allocated by the RECIPIENT for child abuse intervention (i.e. supplanting). Additional guidance can be found at on allowable and unallowable costs are provided in the CAMI grant management handbook. http://www.doj.state.or.us/victims/pdf/cami_grant_management_handbook.pdf
 - d) **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.
 - e) **Match.** Matching funds are not required for this Agreement.
 - f) **Payment.** Routine requests for reimbursement should be submitted quarterly by the 15th of the following month using the form and instructions in Exhibit D: Request for Reimbursement. Payments for the entirety of this agreement will be made in four (4) equal payments upon receiving quarterly invoices. SUBRECIPIENT must submit a final request for payment no

later than fifteen (15) days after the end date of this Agreement. All requests should be submitted to Clackamas County Finance, Attn: Bouavieng Bounnam, 2051 Kaen Rd, Oregon City OR 97045.

- g) **Performance and Financial Reporting.** SUBRECIPIENT must submit Performance Reports according to the schedule specified in Exhibit B: SUBRECIPIENT Performance Reporting. SUBRECIPIENT must submit Financial Reports according to the schedule specified in Exhibit C: Request for Reimbursement. All reports must be submitted on SUBRECIPIENT letterhead, must reference this agreement number, and be signed and dated by an authorized official of SUBRECIPIENT.
- h) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed by State and Federal law.
- i) **Monitoring.** SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring. COUNTY, the State of Oregon Department of Justice, 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 the COUNTY's discretion.
- j) **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 seven (7) 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.
- k) **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 the 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.
- l) **Criminal History Verification.** SUBRECIPIENT shall obtain a criminal history record check on any employee, potential employee, contractor, or volunteer working with victims of crime. The criminal record check should be sufficient to indicate convictions of child abuse, offenses against persons, sexual offenses, child neglect, or any other offense bearing a substantial relation to the qualifications, functions or duties of an individual who may work with victims of crime.

Accordingly, SUBRECIPIENT shall develop policies and procedures to review criminal arrests or convictions of employees, potential employees, contractors, and volunteers. The review will encompass: the severity and nature of the crime, the number of offenses, the time elapsed since occurrence, the circumstances surrounding the crime, the individual's participation in counseling, therapy, education or employment evidencing rehabilitation or a change in behavior, and the police report confirming the individual's explanation of the crime. Based on the information received, SUBRECIPIENT shall determine if the employee, potential employee, contractor, or volunteer has been convicted of one of the crimes in this Section and whether based upon the conviction, the individual poses a risk to working safely with victims of crime. If SUBRECIPIENT chooses to hire or retain the said individual, SUBRECIPIENT shall confirm the reasons in writing and place this along with all background checks and related information in the personnel file for

permanent retention. Justifications to hire or retain shall address how the individual is presently suitable or able to work with victims of crime in a safe and trustworthy manner.

- m) **Confidentiality.** SUBRECIPIENT expressly agrees to comply with ORS 418.795 (1) and will follow all confidentiality requirements when working with victims of crime.

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, 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 the agreement. SUBRECIPIENT shall comply with the terms of the Grant Management Handbook available at http://www.doj.state.or.us/victims/pdf/cami_grant_management_handbook.pdf and incorporated herein by reference.
- 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 the Agreement.

12. State Procurement Standards

- a) 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 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.

13. 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 noted below:
 - 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this agreement, Commercial General Liability Insurance covering bodily injury, death, and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
 - 2) **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.
 - 3) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish the COUNTY evidence of Professional Liability Insurance covering any damages caused by an error, omission, or negligent act related to the services to be provided under this agreement, with limits not less than \$2,000,000 per occurrence for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this agreement. COUNTY, at its option, may require a complete copy of the above policy.

- 4) **Workers' Compensation.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If contractor is a subject employer, as defined in ORS 656.023, contractor shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.
 - 5) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, officers, and employees" as an additional insured.
 - 6) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 day notice of cancellation provision shall be physically endorsed on to the policy.
 - 7) **Insurance Carrier Rating.** Coverage 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.
 - 8) **Certificates of Insurance.** As evidence of the insurance coverage required by this agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. 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 10 days prior to coverage expiration.
 - 9) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
 - 10) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the agreement.
 - 11) **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.
- c) **Assignment.** SUBRECIPIENT shall not enter into any subcontracts or subawards for any of the Program activities required by the Agreement without prior written approval. This Agreement may not be assigned in whole or in part with the express written approval of the 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 the 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) **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.
- h) **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.
- i) **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.
- j) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- k) **Integration.** This agreement contains the entire agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or agreements.

(Signature Page Attached)

SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

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

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

SUBRECIPIENT
The Children's Center
1713 Penn Lane
Oregon City, OR 97045

CLACKAMAS COUNTY, OREGON

The Children's Center of Clackamas County

By: _____
Chair

By: _____
Amanda Bennett, Administrative Director

Dated: _____

Dated: _____

By: _____
Recording Secretary

Dated: _____

Approved to Form

By: _____
County Counsel

- Exhibit A: SUBRECIPIENT Statement of Program Objectives
- Exhibit B: Performance Reporting
- Exhibit C: Request for Reimbursement

EXHIBIT A

STATEMENT OF PROGRAM OBJECTIVES

The Children's Center of Clackamas County's program is comprised of the following:

Children's Center is a medical evaluation center for children suspected to be victims of abuse or neglect. Children are referred to the Center from law enforcement agencies, child protective workers, parents, teachers, doctors and others concerned for the welfare of a child.

Forensic Medical Assessments

Comprehensive head-to-toe exam to determine and document a child's health and safety by Medical Examiners trained in diagnosing child abuse and neglect. Medical exams provided for children identified under Karly's Law. Oregon state law requires investigative agencies to seek a medical evaluation within 48 hours for children who are found to have suspicious physical injuries. Drug screening for children endangered by exposure to drug use, distribution, or manufacturing. Screenings include urinalysis and hair testing.

Forensic Interviewing Services

Videotaped forensic interviews with Child Interviewers specially trained to talk to children of all ages and developmental levels. Child Interviewers work with the Medical Examiners as part of the medical evaluation.

Family Support

Support, referrals, education, and case management for families in Clackamas County struggling with issues of abuse or neglect. These services are offered to non-offending family members of children receiving evaluations at Children's Center as well as families in the community.

Community Outreach & Education

Trainings, presentations and resources for local professional and community groups.

Medical Record Reviews

Review medical records and make recommendations for treatment or follow-up in cases of medical neglect, medical child abuse, and Karly's Law.

Non-Offending Caregiver Support Groups

Support groups for non-offending caregivers of children who have been sexually abused.

Response to Inappropriately Sexualized Kids ("RISK") Outreach

RISK was established by the Clackamas County Multi-Disciplinary Team to provide support, education, resources and intervention to children under the age of 12 who are demonstrating sexually inappropriate behavior. The goal is to address the behaviors before they escalate and/or to prevent juvenile justice involvement.

GOALS:

Children's Center Goals, Objectives, Outcomes FY 2019-2020

1. **Goal:** Provide high quality and comprehensive medical assessments and support services for Clackamas County children suspected to be victims of abuse as part of a coordinated response from Clackamas County's MDT partners.

A. Objectives	B. Activities	C. Target Outputs	D. Output Number	E. Outcomes
1. Solicit feedback from patients and families	Administer satisfaction surveys to families served	90% of families are satisfied with services		
2. Solicit feedback from MDT partners	Administer satisfaction surveys to partners who attend evaluations	90% of partners are satisfied with overall services		
3. Staff providing services to families will be well trained	Provide opportunities to staff to access relevant training	90% of staff providing services to families will attend relevant trainings		

2. **Goal: RISK Outreach**

Provide a coordinated approach to child abuse assessment and intervention that will be conducted efficiently and professionally with a focus on the safety of children to and to provide follow-up services and outreach for children, families and other community agencies.

A. Objectives	B. Activities	C. Target Outputs	D. Output Number	E. Outcomes
1. Provide outreach, intervention and follow-up to RISK referrals	Initiate contact with families and provide education, support & referrals.	Provide outreach and resources to @ 50 families.		
2. Provide outreach, resources and education to local school districts, day care providers, etc.	Initiate or follow-up on school requests or identified agencies in need of training or resources	Provide 2-5 outreach training / resources to school districts, day care providers, law enforcement or other mandatory reporters.		
3. Coordinate with RISK Team members in providing services to families.	Attend all monthly RISK meetings. Coordinate with community agencies as needed.	Monthly reports of status / outcomes of cases referred to RISK Outreach. Quarterly reports documenting number of contacts, type of referral & outcomes.		

PROJECT:

Clackamas County commitment entails:

Oregon law (ORS 418.746-418.796) requires that every county utilize the MDT that is coordinated through each county's District Attorney's office. (Grant Handbook, page 5)

The Clackamas County District Attorney's Office will manage CAMI funds¹ and assign a senior deputy district attorney ("DDA") to chair the MDT. The DDA will ensure that local support is maintained and conflicts are resolved appropriately. He or she will be responsible for ensuring that protocols are in place and MDT partner agencies adhere to the protocols to the greatest extent possible. (Grant Handbook, page 32)

¹ Spending authority remains with the MDT and is strictly tied to the agreed grant budget.(Grant Handbook, page 15)

EXHIBIT B PERFORMANCE REPORTING

PERFORMANCE REPORTING SCHEDULE

1. The Recipient must submit Performance Report, to the MDT Coordinator, two times per year. Reports will be due no later than 15 days after the end of the six month reporting period:

January 15, 2020 for the time frame 7/1/19 – 12/31/19

July 15, 2020 for the time frame 1/1/20 – 6/30/20

(a) Statistical report to include:

a) Number of children referred and seen for medical assessments

b) Number of children referred and seen for advocacy services (protective, intervention, prevention)

c) Number of children referred and seen for treatment services (protective, intervention, prevention)

(b) *Progress Report to include:*

a) Goals, objectives, and outcomes

2. The Recipient must submit a Final Performance Report no later than July 15, 2020.

All reports must be submitted in a format similar to the example below. The reports may be provided electronically. Reports must contain a discussion on each of the following:

- A comparison of actual accomplishments to the outputs /outcomes established in the Program description above for the period. The Final Performance Report should cover the entire program period.
- The reasons established outputs/outcomes were not met.
- Other pertinent information on the progress of the Project.

In addition to the Annual Performance Reports, the Recipient must notify Clackamas County Project Officer of developments that have a significant impact on the grant supported activities. The Recipient must inform Clackamas County Project Officer as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified above. This notification shall include a statement of the action taken or contemplated and any assistance needed to resolve the situation.

EXHIBIT C
REQUEST FOR REIMBURSEMENT

Grant disbursements will be made in equal, quarterly installments for the following periods:

- October, 2019 for period ending July 1, 2019 – September 30, 2019
- January, 2020 for period ending October 1, 2019 – December 31, 2019
- April, 2020 for period ending January 1, 2020 – March 31, 2020
- July, 2020 for period ending April 1, 2020 – June 30, 2020

SUBRECIPIENT will submit an invoice for each equal installment by the 15th of the month of the period in question. The final invoice (April-June, 2020) should be received by COUNTY by July 15th, 2020.



November 7, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of Intergovernmental Agreement with the City of Gladstone
for the Community Diversion Program Services**

Purpose/Outcomes	Clackamas County Juvenile Department will provide Community Diversion Program services (including referral services, Diversion services and centralized juvenile records depository services) for at-risk youth who live within the city limits of eleven (11) Cities as part of the Clackamas County Juvenile Crime Prevention Plan.
Dollar Amount and Fiscal Impact	City of Gladstone , Oregon will provide \$2,500 through June 30, 2019. There are no general fund dollars required.
Funding Source	City of Gladstone
Duration	Effective through June 30, 2020
Previous Board Action	Signed by the Board on 6/7/18 Agenda Item F.1
Strategic Plan Alignment	1. Provide interventions, compliance monitoring, and restorative services to youth so they can be accountable to victims and the community to repair the harm they have caused. 2. Ensure safe, healthy and secure communities.
Counsel Review	Reviewed and approved by County Counsel on 5-6-19
Contact Person	Ed Jones, Administrative Services Mgr, 503-650-3169

BACKGROUND:

Community Diversion Program services provided by Clackamas County Juvenile Department to Gladstone. The City of Gladstone has agreed to contribute to help fund the community diversion services provided in their city.

RECOMMENDATION:

Staff recommends the Board of County Commissioners approve the attached Intergovernmental Agreement renewal.

Respectfully submitted,

Christina L. McMahan, Juvenile Department Director



Nancy Bush

Director

Disaster Management
2200 Kaen Road
Oregon City, OR 97045

T 503-655-8378

clackamas.us

November 7, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of FY19 State Homeland Security Grant Program Agreement between
Clackamas County and the State of Oregon for Shelter Trailers

Purpose/Outcomes	State Homeland Security Grant Program (SHSP) agreement #19-214 provides funding to reimburse Clackamas County Disaster Management for the purchase of three disaster shelter trailers.
Dollar Amount and Fiscal Impact	The grant agreement value is \$36,300. The grant is a 100% federal share grant that will reimburse Clackamas County up to the grant agreement amount for project costs.
Funding Source	FY 2019 State Homeland Security Grant Program via the State of Oregon Military Department, Office of Emergency Management
Duration	The FY19 SHSP grant award period is from October 1, 2019 through September 30, 2020.
Previous Board Action	The Board approved the application for this grant on February 7, 2019, Agenda Item E.2.
Strategic Plan Alignment	1. Coordination and Integration of Planning and Preparedness 2. Ensure Safe, Healthy and Secure Communities
Counsel Review	10/21/19
Contact Person	Nancy Bush, Director, 503-655-8665
Contract No.	Grant agreement #19-214

BACKGROUND:

Each year, Clackamas County Disaster Management leads the development of the application for that fiscal year's State Homeland Security Grant Program. The projects are nominated and selected by the Homeland Security Task Force which is a group of Clackamas County public safety stakeholders. The funding provided in the grant awards allows the Disaster Management Department to maintain and enhance important emergency operations capabilities.

RECOMMENDATION:

Staff respectfully recommends Board approval of SHSP grant agreement #19-214.

Respectfully submitted,

Nancy Bush, Director

**OREGON MILITARY DEPARTMENT
OFFICE OF EMERGENCY MANAGEMENT
HOMELAND SECURITY GRANT PROGRAM
STATE HOMELAND SECURITY PROGRAM
CFDA # 97.067
CLACKAMAS COUNTY DISASTER MANAGEMENT
\$36,300
Grant No: 19-214**

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through the Oregon Military Department, Office of Emergency Management, hereinafter referred to as “OEM,” and **Clackamas County Disaster Management** hereinafter referred to as “Subrecipient,” and collectively referred to as the “Parties.”

1. Effective Date. This Agreement shall become effective on the date this Agreement is fully executed and approved as required by applicable law. Reimbursements will be made for Project Costs incurred beginning on **October 1, 2019** and ending, unless otherwise terminated or extended, on **September 30, 2020** (the “Grant Award Period”). No Grant Funds are available for expenditures after the Grant Award Period. OEM’s obligation to disburse Grant Funds under this Agreement is subject to Sections 6 and 10 of this Agreement.

2. Agreement Documents. This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

- Exhibit A: **Project Description and Budget**
- Exhibit B: **Federal Requirements and Certifications**
- Exhibit C: **Subcontractor Insurance**
- Exhibit D: **Information required by 2 CFR 200.331(a)**

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit B; this Agreement without Exhibits; Exhibit A; Exhibit C.

3. Grant Funds. In accordance with the terms and conditions of this Agreement, OEM shall provide Subrecipient an amount not to exceed **\$36,300** in Grant Funds for eligible costs described in Section 6 hereof. Grant Funds for this Program will be from the Fiscal Year 2019 State Homeland Security Program (SHSP) grant.

4. Project. The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by OEM by amendment pursuant to Section 11.d hereof.

5. Reports. Failure of Subrecipient to submit the required program, financial, or audit reports, or to resolve program, financial, or audit issues may result in the suspension of grant payments, termination of this Agreement, or both.

a. Performance Reports.

- i. Subrecipient agrees to submit performance reports, using a form provided by OEM, on its progress in meeting each of the agreed upon milestones. The narrative reports will address specific information regarding the activities carried out under the FY 2019 State Homeland Security Program.
- ii. Reports are due to OEM on or before the 30th day of the month following each subsequent calendar quarter (ending on March 31, June 30, September 30, and December 31).
- iii. Subrecipient may request from OEM prior written approval to extend a performance report requirement past its due date. OEM, in its sole discretion, may approve or reject the request.

b. Financial Reimbursement Reports.

- i. To receive reimbursement, Subrecipient must submit a signed Request for Reimbursement (RFR), using a form provided by OEM that includes supporting documentation for all grant expenditures. RFRs may be submitted monthly but no less frequently than quarterly during the term of this Agreement. At a minimum, RFRs must be submitted on or before 30 days following each subsequent calendar quarter (ending on March 31, June 30, September 30, and December 31), and a final RFR must be submitted no later than 30 days following the end of the grant period.
- ii. Reimbursements for expenses will be withheld if performance reports are not submitted by the specified dates or are incomplete.
- iii. Reimbursement rates for travel expenses shall not exceed those allowed by the State of Oregon. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expenses or authorized rates incurred.
- iv. Reimbursements will only be made for actual expenses incurred during the Grant Award Period. Subrecipient agrees that no grant may be used for expenses incurred before or after the Grant Award Period.

6. Disbursement and Recovery of Grant Funds.

- a. **Disbursement Generally.** OEM shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Fund amount provided in Section 3. Reimbursements shall be made by OEM upon approval by OEM of an RFR. Eligible costs are the reasonable and necessary costs incurred by Subrecipient for the Project, in accordance with the State Homeland Security Program guidance and application materials, including without limitation the United States Department of Homeland Security Notice of Funding Opportunity (NOFO), that are not excluded from reimbursement by OEM, either by this Agreement or by exclusion as a result of financial review or audit. The guidance, application materials and NOFO are available at <http://www.oregon.gov/oem/emresources/Grants/Pages/HSGP.aspx>.
- b. **Conditions Precedent to Disbursement.** OEM's obligation to disburse Grant Funds to Subrecipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- i. OEM has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to make the disbursement.
- ii. Subrecipient is in compliance with the terms of this Agreement including, without limitation, Exhibit B and the requirements incorporated by reference in Exhibit B.
- iii. Subrecipient's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
- iv. Subrecipient has provided to OEM a RFR in accordance with Section 5.b of this Agreement.

c. Recovery of Grant Funds. Any funds disbursed to Subrecipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement ("Unexpended Funds") must be returned to OEM. Subrecipient shall return all Misexpended Funds to OEM promptly after OEM's written demand and no later than 15 days after OEM's written demand.

7. Representations and Warranties of Subrecipient. Subrecipient represents and warrants to OEM as follows:

- a. Organization and Authority.** Subrecipient is a political subdivision of the State of Oregon and is eligible to receive the Grant Funds. Subrecipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Subrecipient of this Agreement (1) have been duly authorized by all necessary action of Subrecipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is a party or by which Subrecipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subrecipient of this Agreement.
- b. Binding Obligation.** This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid and binding obligation of Subrecipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- c. No Solicitation.** Subrecipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
- d. NIMS Compliance.** By accepting FY 2019 funds, Subrecipient certifies that it has met National Incident Management System (NIMS) compliance activities outlined in the Oregon NIMS Requirements located through OEM at http://www.oregon.gov/oem/emresources/Plans_Assessments/Pages/NIMS.aspx.

The warranties set forth in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. Records Maintenance and Access; Audit.

- a. Records, Access to Records and Facilities.** Subrecipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Subrecipient acknowledges and agrees, and Subrecipient will require its contractors, subcontractors, sub-recipients (collectively hereafter “contractors”), successors, transferees, and assignees to acknowledge and agree, to provide OEM, Oregon Secretary of State (Secretary), Office of Inspector General (OIG), Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), or any of their authorized representatives, access to records, accounts, documents, information, facilities, and staff. Subrecipient and its contractors must cooperate with any compliance review or complaint investigation by any of the above listed agencies, providing them access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary. The right of access is not limited to the required retention period but shall last as long as the records are retained.
- b. Retention of Records.** Subrecipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for until the latest of (a) six years following termination, completion or expiration of this Agreement, (b) upon resolution of any litigation or other disputes related to this Agreement, or (c) as required by 2 CFR 200.333. It is the responsibility of Subrecipient to obtain a copy of 2 CFR Part 200, and to apprise itself of all rules and regulations set forth.
- c. Audits.**

 - i. If Subrecipient expends \$750,000 or more in Federal funds (from all sources) in its fiscal year, Subrecipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR 200 Subpart F. Copies of all audits must be submitted to OEM within 30 days of completion. If Subrecipient expends less than \$750,000 in its fiscal year in Federal funds, Subrecipient is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials as provided in Section 8.a. herein.
 - ii. Audit costs for audits not required in accordance with 2 CFR 200 Subpart F are unallowable. If Subrecipient did not expend \$750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the grant.
 - iii. Subrecipient shall save, protect and hold harmless the OEM from the cost of any audits or special investigations performed by the Secretary or any federal agency with respect to the funds expended under this Agreement. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Subrecipient and the State of Oregon.

9. Subrecipient Procurements; Property and Equipment Management and Records; Subcontractor Indemnity and Insurance

- a. Subagreements.** Subrecipient may enter into agreements (hereafter “subagreements”) for performance of the Project. Subrecipient shall use its own procurement procedures and

regulations, provided that the procurement conforms to applicable Federal and State law (including without limitation ORS chapters 279A, 279B, 279C, and that for contracts for more than \$150,000, the contract shall address administrative, contractual or legal remedies for violation or breach of contract terms and provide for sanctions and penalties as appropriate, and for contracts for more than \$10,000 address termination for cause or for convenience including the manner in which termination will be effected and the basis for settlement).

- i. Subrecipient shall provide to OEM copies of all Requests for Proposals or other solicitations for procurements anticipated to be for \$100,000 or more and to provide to OEM, upon request by OEM, such documents for procurements for less than \$100,000. Subrecipient shall include with its RFR a list of all procurements issued during the period covered by the report.
- ii. All subagreements, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner that encourages fair and open competition to the maximum practical extent possible. All sole-source procurements in excess of \$100,000 must receive prior written approval from OEM in addition to any other approvals required by law applicable to Subrecipient. Justification for sole-source procurement in excess of \$100,000 should include a description of the program 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.
- iii. 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, or Requests for Proposals (RFP) 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 OEM.
- iv. Subrecipient agrees that, to the extent it uses contractors, such contractors shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

b. Purchases and Management of Property and Equipment; Records. Subrecipient agrees to comply with all applicable federal requirements referenced in Exhibit B, Section II.C.1 to this Agreement and procedures for managing and maintaining records of all purchases of property and equipment will, at a minimum, meet the following requirements:

- i. All property and equipment purchased under this agreement, whether by Subrecipient or a contractor, will be conducted in a manner providing full and open competition and in accordance with all applicable procurement requirements, including without limitation ORS chapters 279A, 279B, 279C, and purchases shall be recorded and maintained in Subrecipient's property or equipment inventory system.
- ii. Subrecipient's property and equipment records shall include: a description of the property or equipment; the manufacturer's serial number, model number, or other identification number; the source of the property or equipment, including the Catalog of Federal Domestic Assistance (CFDA) number; name of person or entity holding title to the property or equipment; the acquisition date; cost and percentage of Federal participation in the cost; the location, use and condition of the property or equipment; and any ultimate disposition data including the date of disposal and sale price of the property or equipment.
- iii. A physical inventory of the property and equipment must be taken and the results reconciled with the property and equipment records at least once every two years.

- iv. Subrecipient must develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property and equipment. Subrecipient shall investigate any loss, damage, or theft and shall provide the results of the investigation to OEM upon request.
- v. Subrecipient must develop, or require its contractors to develop, adequate maintenance procedures to keep the property and equipment in good condition.
- vi. If Subrecipient is authorized to sell the property or equipment, proper sales procedures must be established to ensure the highest possible return.
- vii. Subrecipient agrees to comply with 2 CFR 200.313 pertaining to use and disposal of equipment purchased with Grant Funds, including when original or replacement equipment acquired with Grant Funds is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency.
- viii. Subrecipient shall require its contractors to use property and equipment management requirements that meet or exceed the requirements provided herein applicable to all property and equipment purchased with Grant Funds.
- ix. Subrecipient shall, and shall require its contractors to, retain the records described in this Section 9.b. for a period of six years from the date of the disposition or replacement or transfer at the discretion of OEM. Title to all property and equipment purchased with Grant Funds shall vest in Subrecipient if Subrecipient provides written certification to OEM that it will use the property and equipment for purposes consistent with the State Homeland Security Program.

c. **Subagreement indemnity; insurance.** Subrecipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless OEM and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Subrecipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that OEM shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of OEM, be indemnified by the other party to Subrecipient's subagreement(s) from and against any and all Claims.

Any such indemnification shall also provide that neither Subrecipient's contractor(s) nor any attorney engaged by Subrecipient's contractor(s) shall defend any claim in the name of OEM or any agency of the State of Oregon (collectively "State"), nor purport to act as legal representative of the State or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Subrecipient's contractor is prohibited from defending State or that Subrecipient's contractor is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against Subrecipient's contractor if State elects to assume its own defense.

Subrecipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

10. Termination

- a. Termination by OEM.** OEM may terminate this Agreement effective upon delivery of written notice of termination to Subrecipient, or at such later date as may be established by OEM in such written notice, if:
- i. Subrecipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Subrecipient is, for any reason, rendered improbable, impossible, or illegal; or
 - ii. OEM fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
 - iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
 - iv. The Project would not produce results commensurate with the further expenditure of funds; or
 - v. Subrecipient takes any action pertaining to this Agreement without the approval of OEM and which under the provisions of this Agreement would have required the approval of OEM.
 - vi. OEM determines there is a material misrepresentation, error or inaccuracy in Subrecipient's application.
- b. Termination by Subrecipient.** Subrecipient may terminate this Agreement effective upon delivery of written notice of termination to OEM, or at such later date as may be established by Subrecipient in such written notice, if:
- i. The requisite local funding to continue the Project becomes unavailable to Subrecipient; or
 - ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- c. Termination by Either Party.** Either Party may terminate this Agreement upon at least ten days notice to the other Party and failure of the other Party to cure within the ten days, if the other Party fails to comply with any of the terms of this Agreement.
- d. Settlement upon Termination.** Immediately upon termination under Sections 10.a.i, v., or vi, no Grant Funds shall be disbursed by OEM and Subrecipient shall return to OEM Grant Funds previously disbursed to Subrecipient by OEM in accordance with Section 6.c and the terminating party may pursue additional remedies in law or equity. Termination of this Agreement does not relieve Subrecipient of any other term of this Agreement that may survive termination, including without limitation Sections 11.a and c.

11. GENERAL PROVISIONS

- a. Contribution.** To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless OEM and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys' fees incurred related to any actual or alleged act or

omission by Recipient, or its employees, agents or contractors. This Section shall survive expiration or termination of this Agreement.

- b. Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each party shall bear its own costs incurred under this Section 11.b.
- c. Responsibility for Grant Funds.** Subrecipient, pursuant to this Agreement with OEM, shall assume sole liability for its breach of the conditions of this Agreement, and shall, upon its breach of conditions that causes or requires OEM to return funds to DHS or FEMA, hold harmless and indemnify OEM for an amount equal to the funds received under this Agreement; or if legal limitations apply to the Subrecipient's indemnification ability, the indemnification amount shall be the maximum amount of funds available to Subrecipient for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- d. Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- e. Duplicate Payment.** Subrecipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- f. No Third Party Beneficiaries.** OEM and Subrecipient 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 or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

Subrecipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to Subrecipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from the this Agreement.

- g. Notices.** Except as otherwise expressly provided in this Section, any communications between the parties hereto or notice to be given hereunder shall be given in writing by personal delivery, facsimile, email or mailing the same by registered or certified mail, postage prepaid to Subrecipient or OEM at the appropriate address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and sent by registered or certified mail shall be deemed delivered upon receipt or refusal of receipt. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. The parties also may communicate by telephone, regular mail or other means, but such communications shall not be deemed Notices under this Section unless receipt by the other party is expressly acknowledged in writing by the receiving party.

- h. Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by, construed in accordance with, and enforced under the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, “Claim”) between OEM (or any other agency or department of the State of Oregon) and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon 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. Each party hereby consents to the exclusive jurisdiction of the Circuit Court of Marion County in the State of Oregon, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
- i. Compliance with Law.** Subrecipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation as described in Exhibit B.
- j. Insurance; Workers’ Compensation.** 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. Employer’s liability insurance with coverage limits of not less than \$500,000 must be included. Subrecipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.
- k. Independent Contractor.** Subrecipient shall perform the Project as an independent contractor and not as an agent or employee of OEM. Subrecipient has no right or authority to incur or create any obligation for or legally bind OEM in any way. Subrecipient acknowledges and agrees that Subrecipient is not an “officer”, “employee”, or “agent” of OEM, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- l. Severability.** If any term or provision of this Agreement 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 this Agreement did not contain the particular term or provision held to be invalid.
- m. Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- n. Integration and Waiver.** This Agreement, including all Exhibits and referenced documents, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Subrecipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

THE PARTIES, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

SIGNATURE PAGE TO FOLLOW

**CLACKAMAS COUNTY DISASTER
MANAGEMENT**

STATE OF OREGON, acting by and through its Oregon
Military Department, Office of Emergency Management

By _____

By _____

Name _____
(printed)

Name _____
(printed)
Operations and Preparedness Section Manager, OEM

Date _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY
(If required for Subrecipient)

APPROVED AS TO FORM

By  _____
Subrecipient's Legal Counsel

By Samuel B. Zeigler via email
Senior Assistant Attorney General

Date 10/21/2019

Date September 5, 2019

Subrecipient Program Contact:

Sarah Eckman
Administrative Services Manager
Clackamas County
2300 Kaen Rd
Oregon City, OR 97045
503-650-3381
sarahste@clackamas.us

OEM Program Contact:

Sidra Metzger-Hines
Grants Coordinator
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062
503-378-3661
sidra.metzgerhines@state.or.us

Subrecipient Fiscal Contact:

Michael Morasko
Senior Accountant
Clackamas County
2051 Kaen Rd
Oregon City, OR 97045
503-742-5435
mmorasko@clackamas.us

OEM Fiscal Contact:

Natalie Day
Senior Grants Accountant
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062
503-378-3931
natalie.day@state.or.us

Exhibit A
Grant No: 19-214
Subrecipient: Clackamas County Disaster Management

I. Project Description

Project Title: Shelter Trailers

This project purchases 3 trailers and stocks them with shelter supplies for use throughout the county.

II. Budget

CBRNE Incident Response Vehicles	\$ 15,000
Medical	\$ 15,900
Decontamination	\$ 4,500
Other Authorized Equipment	\$ 900
Total	\$ 36,300

EXHIBIT B

Federal Requirements and Certifications

I. General. Subrecipient agrees to comply with all federal requirements applicable to this Agreement. Those federal requirements include, without limitation, financial management and procurement requirements; requirements for maintaining accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP); and all other financial, administrative, and audit requirements as set forth in the most recent versions of the Code of Federal Regulations (CFR), Department of Homeland Security (DHS) program legislation, and DHS/Federal Emergency Management Agency (FEMA) program regulations and requirements.

II. Specific Requirements and Certifications

- A. Debarment, Suspension, Ineligibility and Voluntary Exclusion.** Subrecipient certifies by accepting funds under this Agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, nor voluntarily excluded from participation in this transaction by any Federal department or agency (2 CFR 200.213).
- B. Standard Assurances and Certifications Regarding Lobbying.** Subrecipient is required to comply with 2 CFR 200.450 and the authorities cited therein, including 31 USC § 1352 and *New Restrictions on Lobbying* published at 55 Federal Register 6736 (February 26, 1990).
- C. Compliance with Applicable Federal Law.** Subrecipient agrees to comply with all applicable laws, regulations, program guidance, the Federal Government in the performance of this Agreement, including but not limited to:
1. Administrative Requirements set forth in 2 CFR Part 200, including, without limitation:
 - a. Using Grant Funds only in accordance with applicable cost principles described in 2 CFR Subpart E, including that costs allocable to this Grant may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations or the terms of federal awards or other reasons;
 - b. Subrecipient must establish a Conflict of Interest policy applicable to any procurement contract or subawards made under this Agreement in accordance with 2 CFR 200.112. Conflicts of Interest must be disclosed in writing to the OEM within 5 calendar days of discovery including any information regarding measures to eliminate, neutralize, mitigate or otherwise resolve the conflict of interest.
 2. USA Patriot Act of 2001, which amends 18 USC §§ 175-175c.
 3. Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 USC 2225(a).
 4. False Claims Act & Program Fraud Civil Remedies, 31 USC 3729, prohibiting recipients of federal payments from submitting a false claim for payment. *See* 38 USC 3801-3812 detailing administrative remedies for false claims and statements made.
 5. Whistleblower Protection Act, 10 USC §§ 2409 and 2324 and 41 USC §§ 4712, 4304 and 4310 requiring compliance with whistleblower protections, as applicable.
 6. No supplanting. Grant Funds under this Agreement shall not replace funds that have been budgeted for the same purposes through non-Federal sources. Subrecipient may be required to

demonstrate and document that a reduction in non-Federal resources occurred for reasons other than receipt or expected receipt of Federal funds. Any project cost allocable to this Agreement may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons.

- D. Non-discrimination and Civil Rights Compliance.** Subrecipient, and all of its contractors and subcontractors, assures compliance with all applicable nondiscrimination laws, including, but not limited to:
- a. Title VI of the Civil Rights Act of 1964, 42 USC § 2000d et seq., as amended, and related nondiscrimination regulations in 6 CFR Part 21 and 44 CFR Part 7.
 - b. Title VIII of the Civil Rights Act of 1968, 42 USC § 3601, as amended, and implementing regulations at 6 CFR Part 21 and 44 CFR Part 7.
 - c. Titles I, II, and III of the Americans with Disabilities Act of 1990, as amended, 42 USC §§ 12101 – 12213.
 - d. Age Discrimination Act of 1975, 42 USC § 6101 et seq.
 - e. Title IX of the Education Amendments of 1972, as amended, 20 USC § 1681 et seq.
 - f. Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794, as amended.
- E. Services to Limited English Proficient (LEP) Persons.** Subrecipient, and any of its contractors and subcontractors agrees to comply with the requirements Title VI of the Civil Rights Act of 1964 and Executive Order 13166, improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin and resulting agency guidance, national origin discrimination includes discrimination on the basis of LEP. To ensure compliance with Title VI, Subrecipient must take reasonable steps to ensure that LEP persons have meaningful access to your programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Subrecipient is encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. For assistance additional information regarding LEP obligations, please see <http://www.lep.gov>.
- F. Procurement of Recovered Materials.** Subrecipient must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Recovery and Conservation Act and in accordance with Environmental Protection Agency guidelines at 40 CFR Part 247.
- G. SAFECOM.** If the Grant Funds are for emergency communication equipment and related activities, Subrecipient must comply with SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.
- H. Drug Free Workplace Requirements.** Subrecipient agrees to comply with the requirements of the Drug-Free Workplace Act of 1988, 41 USC § 701 et seq., as amended, and implementing regulations at 2 CFR Part 3001 which require that all organizations receiving grants (or subgrants) from any Federal agency agree to maintain a drug-free workplace. Subrecipient must notify this office if an employee of Subrecipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment.

- I. Human Trafficking (2 CFR Part 175).** Subrecipient must comply with requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, 22 USC § 7104, as amended and 2 CFR § 175.15.
- J. Fly America Act of 1974.** Subrecipient agrees to comply with the requirements of the Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 USC § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, (49 USC § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to the Comptroller General Decision B138942.
- K. Activities Conducted Abroad.** Subrecipient agrees to comply with the requirements that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.
- L. Acknowledgement of Federal Funding from DHS.** Subrecipient agrees to comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.
- M. Copyright.** Subrecipient shall affix the applicable copyright notices of 17 USC § 401 or 402 and an acknowledgement of Government sponsorship (including Subgrant number) to any work first produced under an award unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations). For any scientific, technical, or other copyright work based on or containing data first produced under this Agreement, including those works published in academic, technical or professional journals, symposia proceedings, or similar works, Subrecipient grants the Government a royalty-free, nonexclusive and irrevocable license to reproduce, display, distribute copies, perform, disseminate, or prepare derivative works, and to authorize others to do so, for Government purposes in all such copyrighted works.
- N. Patents and Intellectual Property Rights.** Unless otherwise provided by law, Subrecipient is subject the Bayh-Dole Act, 35 USC § 200 et seq., as amended, including requirements governing the development, reporting and disposition of rights to inventions and patents resulting from financial assistance awards, 37 CFR Part 401, and the standard patent rights clause in 37 CFR § 401.14.
- O. Use of DHS Seal, Logo and Flags.** Subrecipient agrees to obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.
- P. Personally Identifiable Information (PII).** Subrecipient, if it collects PII, is required to have a publically available privacy policy that described what PII they collect, how they use it, whether they share it with third parties and how individuals may have their PII corrected where appropriate.
- Q. Federal Debt Status.** Subrecipient shall be non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, benefit

overpayments and any amounts due under Section 11.c of this Agreement. See OMB Circular A-129 for additional information and guidance.

- R. Energy Policy and Conservation Act.** Subrecipient must comply with the requirements of 42 USC § 6201 which contains policies relating to energy efficiency that are defined in the state energy conservation plan issues in compliance with the Act
- S. Lobbying Prohibitions.** Subrecipient must comply with 31 USC §1352, which provides that none of the funds provided under an award may be expended by the subrecipient to pay any person to influence, or attempt to influence and 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 any Federal action concerning the award or renewal.
- T. Terrorist Financing.** Subrecipient must comply with US Executive Order 13224 and US law that prohibits transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of Subrecipients to ensure compliance with the EO and laws.
- U. Faith-Based Organizations.** Subrecipient must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statues, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.
- V. National Environmental Policy Act.** Subrecipient must comply with the requirements of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires Subrecipient to use all practicable means within its authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.
- W. Federal Leadership on Reducing Text Messaging while Driving.** Subrecipient is encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.
- X. Environmental Planning and Historic Preservation.** DHS/FEMA funded activities that may require an EHP review are subject to FEMA's Environmental Planning and Historic Preservation review process. If ground disturbing activities occur during construction, sub-recipient will monitor ground disturbance, and if any potential archeological resources are discovered, applicant will immediately cease work in that area and notify Oregon Office of Emergency Management, and DHS/FEMA.

EXHIBIT C

Subagreement Insurance Requirements

GENERAL.

Subrecipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, “TAIL” COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences; and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to OEM. Subrecipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Subrecipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Subrecipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Subrecipient permit work under a subagreement when Subrecipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, “first tier” means a subagreement in which Subrecipient is a Party.

TYPES AND AMOUNTS.

i. WORKERS COMPENSATION. Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers’ compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Employers’ liability insurance with coverage limits of not less than \$500,000 must be included.

ii. COMMERCIAL GENERAL LIABILITY.

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to OEM. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by OEM:

Bodily Injury, Death and Property Damage:

\$500,000 per occurrence, (for all claimants for claims arising out of a single accident or occurrence).

iii. AUTOMOBILE Liability Insurance: Automobile Liability.

Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for “Commercial General Liability” and “Automobile Liability”). Automobile Liability Insurance must be in not less than the following amounts as determined by OEM:

Bodily Injury, Death and Property Damage:

\$500,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

ADDITIONAL INSURED. The Commercial General Liability Insurance and Automobile Liability insurance must include OEM, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

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

NOTICE OF CANCELLATION OR CHANGE. The contractor or its insurer must provide 30 days' written notice to Subrecipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE. Subrecipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage. INSURANCE REQUIREMENT REVIEW. Recipient agrees to periodic review of insurance requirements by OEM under this Agreement and to provide updated requirements as mutually agreed upon by OEM and Recipient.

OEM ACCEPTANCE. All insurance providers are subject to OEM acceptance. If requested by OEM, Recipient shall provide complete copies of its Contractors' insurance policies, endorsements, self-insurance documents and related insurance documents to OEM's representatives responsible for verification of the insurance coverages required under this Exhibit C.

Exhibit D

Information required by 2 CFR 200.331(a)

1. Federal Award Identification:
 - (i) Sub-recipient name (which must match registered name in DUNS): Clackamas County Disaster Management
 - (ii) Sub-recipient's DUNS number: 096992656
 - (iii) Federal Award Identification Number (FAIN): EMW-2019-SS-00068-S01
 - (iv) Federal Award Date: September 1, 2019
 - (v) Sub-award Period of Performance Start and End Date: From October 1, 2019 to September 30, 2020
 - (vi) Amount of Federal Funds Obligated by this Agreement: \$36,300
 - (vii) Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this agreement *: \$36,300
 - (viii) Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: \$36,300
 - (ix) Federal award project description: State Homeland Security Program Grant plays an important role in the implementation of the National Preparedness System by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation.
 - (x)
 - (a) Name of Federal awarding agency: U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA)
 - (b) Name of Pass-through entity: Oregon Military Department, Office of Emergency Management
 - (c) Contact information for awarding official: Andrew Phelps, Director – Oregon Office of Emergency Management, PO Box 14370, Salem, OR 97309-5062
 - (xi) CFDA Number and Name: 97.067 Homeland Security Grant Program
Amount: \$7,327,500
 - (xii) Is Award R&D? No
 - (xiii) Indirect cost rate for the Federal award: 12%
2. Subrecipient's indirect cost rate: 0% *The Total amount of Federal Funds Obligated to the Subrecipient by the pass-through entity is the Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity during the current fiscal year.



November 7, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement between Clackamas County and Oregon Department of Environmental Quality for Clackamas County Illegal Dumpsites #047-20

Purpose/Outcomes	This Intergovernmental Agreement (IGA) will provide funding to the Clackamas County Dump Stoppers Program to support clean up of hazardous substances discovered on illegal dumpsites throughout the county.
Dollar Amount and Fiscal Impact	The IGA will provide up to \$20,000 in revenue to offset expenses incurred in cleaning up dumpsites meeting specific DEQ criteria.
Funding Source	Oregon DEQ Solid Waste Orphan Site Account
Duration	Through September 30, 2020
Strategic Plan Alignment	<ul style="list-style-type: none">• Build public trust through good government• Ensure safe, healthy and secure communities• Honor, utilize, promote and invest in our natural resources
Previous Board Action	None
Counsel Review	This <u>agreement</u> was reviewed and approved by County Counsel on <u>October 7, 2019</u> .
Contact Person	Rick Gruen, Manager, BCS – County Forest, x4345

BACKGROUND:

The Clackamas County Dump Stoppers program, part of the Business & Community Services (BCS) Forest and Timber Management program, recovers over 60,000 pounds of solid waste from illegal dumpsites annually. Dumpsites sometimes include hazardous substances such as asbestos and oil. These illegal dumpsites can vary in size, composition of dumped materials, and potential threat to human health or the environment.

The Oregon Department of Environmental Quality (DEQ) has established criteria for dumpsites to qualify as Solid Waste Orphan Sites. This designation enables DEQ to use its Solid Waste Orphan Site Account to fund site investigation, stabilization, and cleanup activities.

On July 23, 2019, DEQ approved a Request for Orphan Site Designation, which allows certain illegal dumpsites located within Clackamas County which meet specific criteria to qualify as Solid Waste Orphan Sites and to have investigative, removal, and/or remedial actions funded by DEQ's Solid Waste Orphan Site Account. The IGA between Clackamas County and DEQ will allow Clackamas County to be reimbursed for up to \$20,000 for costs incurred in the cleanup of illegal dumpsites meeting specified DEQ Solid Waste Orphan Site criteria.

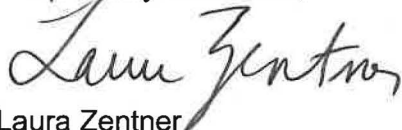
RECOMMENDATION:

Staff recommends Board approval of the Intergovernmental Agreement between Clackamas County and Oregon Department of Environmental Quality for Clackamas County Illegal Dumpsites #047-20.

ATTACHMENTS:

- Intergovernmental Agreement between Clackamas County and Oregon Department of Environmental Quality for Clackamas County Illegal Dumpsites #047-20

Respectfully Submitted,



Laura Zentner
Director, Business & Community Services

**INTERGOVERNMENTAL AGREEMENT
Clackamas County Illegal Dumpsites**

This Agreement is between the State of Oregon, acting by and through its Department of Environmental Quality (DEQ) and **Clackamas County** (County).

COUNTY DATA	DEQ DATA
<p>Agreement Administrator: Rick Gruen</p> <p>Organization: Clackamas County Dump Stoppers Address: 150 Beaver Creek Road, Oregon City, OR 97045</p> <p>503.742.4345 Federal Tax ID: 93-6002286</p>	<p>Agreement Administrator: Heather Kuoppamaki Dept. of Environmental Quality 700 NE Multnomah St., Ste 600 Portland, OR 97232</p> <p>503-229-5125 kuoppamaki.heather@deq.state.or.us</p>

1. **Background** Significant illegal dumping occurs in Clackamas County every year. Clackamas County Dump Stoppers recovers over 50,000 cubic yards of waste from illegal dumpsites annually. Wastes dumped often include hazardous substances such as asbestos and oil. These illegal dumpsites can vary in size, composition of dumped materials, and potential threat to human health or the environment. Therefore, DEQ has declared that certain illegal dumpsites located within Clackamas County and meeting specific criteria established in an eligibility confirmation checklist prepared by DEQ will qualify as Solid Waste Orphan Sites, the cleanup of which may be funded by DEQ's Solid Waste Orphan Site Account. An Orphan Declaration memo designating eligible sites as Orphans was signed by DEQ on July 23, 2019.
2. **Authority** Under Oregon Administrative Rule (OAR) 340-122-0530(2)(c) the Solid Waste Orphan Site Account may be used for investigation and cleanup of a release of hazardous substances at privately owned or operated solid waste disposal sites which receive or received domestic solid waste and for which DEQ determines responsible parties are unknown, unwilling, or unable to undertake removal or remedial action;. This includes sites where a local government unit conducts a removal or remedial action at an orphan site under an ORS 465.260 agreement with DEQ.

DEQ has authority under Oregon Revised Statutes (ORS) 190.110 to cooperate for any lawful purpose with a unit of local government, and has authority under ORS 465.200 et seq. to undertake in cooperation with others or by contract, any activity necessary to conduct removal or remedial action necessary to protect public health, safety, welfare and the environment.

- A. The substances at the dumpsites are "hazardous substances" under ORS 465.200(16) and under Oregon Administrative Rule 340-122-0115(30).
 - B. The presence of hazardous substances at the various dumpsites constitute "releases" or "threats of releases" into the environment under ORS 465.200(22).
 - C. The Work described in Section 5 consists of "removal" or "remedial" actions under ORS 465.200(23) and 465.200(25).
3. **Effective Date and Duration** This Agreement is effective on the date that every party has signed this Agreement and, when required, the Agreement has been approved by the Department of Justice. Unless earlier terminated or extended, this Agreement expires **September 30, 2020**.
 4. **Agreement Documents** This Agreement consists of this document and the attached Exhibit A (Statement of Work), Exhibit B (Subcontractor Insurance Requirements), Exhibit C (Orphan Site Declaration), and Exhibit D (Eligibility Confirmation Checklist).
 5. **Statement of Work** The statement of work (Work) is contained in attached Exhibit A. County agrees to perform the Work in accordance with the terms and conditions of this Agreement.
 6. **Consideration** The maximum, not-to-exceed compensation payable to County under this Agreement, which includes any allowable expenses, is **\$20,000**. Interim payments to County will be made only in accordance with the schedule and requirements described in Section 7 below.
 7. **Invoicing/Payments**
 - A. County will not submit invoices for, and DEQ will not pay, any amount in excess of the maximum not-to-exceed compensation amount identified in this Agreement. If this maximum compensation amount is increased by amendment of this Agreement, the amendment must be fully effective before County performs Work subject to the amendment. County will notify DEQ's Agreement Administrator in writing sixty (60) calendar days before this Agreement expires of any proposed amendments to the Agreement.
 - B. This is an expense reimbursement Agreement. Disbursements for reimbursement of the Work will be subject to the conditions set forth in this Agreement. Supporting documentation must be provided for expenses for which reimbursement is claimed. Reimbursement requests must be accompanied by invoices that itemize and explain all expenses for which reimbursement is

claimed. Reimbursement requests must be accompanied by a copy of all receipts for expenses for which reimbursement is being requested. County may not seek or receive from any third party any form of duplicate, overlapping or multiple payments for expenses reimbursed under this Agreement

- C. Invoices must reference the DEQ Agreement # and must be emailed to DEQEXP@deq.state.or.us. Invoices are subject to the review and approval of the DEQ Agreement Administrator. **Invoice payments will be sent to Clackamas County Forest, 150 Beavercreek Rd, Suite 419, Oregon City, OR 97045.**

- 8. Travel and Travel Related Expenses** It is the policy of the State that travel expenses will be allowed only when the travel is essential to the normal discharge of this Agreement. All travel will be conducted in the most efficient and cost-effective manner resulting in the best value to the State. Personal expenses will not be authorized at any time. All expenses are included in the total maximum Agreement amount. County understands and agrees that travel expenses will be reimbursed at rates not to exceed those rates approved by the Oregon Department of Administrative Services for State employees and in effect at the time the expense was incurred. **Receipts for lodging, car rental and airfare expenses must be provided to be eligible for reimbursement.** County understands and agrees that the rates are subject to change and, in such event, the changed rates will immediately become part of this Agreement and govern reimbursement of any travel expenses incurred after the date of the change.
- 9. Amendments** The terms of this Agreement will not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.
- 10. Termination** This Agreement may be terminated by mutual consent of both parties or by either party upon 30 days written notice from one party to the other party. This termination notice may be transmitted in person, or by mail, facsimile or Email. If this Agreement is terminated under this Section 10, DEQ will pay for approved unpaid invoices and services performed within any limits set forth in this Agreement.
- 11. Funds Available and Authorized** County shall not be compensated for Work performed under this Agreement by any other agency or department of the State of Oregon. DEQ certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Agreement within the DEQ's current biennial appropriation or limitation. County understands and agrees that DEQ's payment of amounts under this Agreement is contingent on DEQ receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow DEQ, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
- 12. Captions** The captions or headings in this Agreement are for convenience only and are not intended to define, limit or fully describe the scope or intent of any provisions of this Agreement.
- 13. Access to Records** County will maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, County will maintain any other records pertinent to this Agreement in such a manner as to clearly document County's performance. DEQ, the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of County not otherwise privileged under the law of the State of Oregon that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. County 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, or such longer period as may be required by applicable 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.
- 14. Compliance with Applicable Law** County and its contractors will comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work performed under this Agreement. Without limiting the generality of the foregoing, County expressly agrees to comply with the following laws, regulations and executive orders 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) ORS Chapter 659, as amended; (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 (xi) ORS 279A, ORS 279B, ORS 279C as applicable to County. 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.
- 15. Recycled Products and Sustainable Practices** County shall, to the maximum extent economically feasible in the performance of this Agreement, use recycled paper (as defined in ORS 279A.010(1)(ee)), recycled PETE products (as defined in ORS 279A.010(1)(ff)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(gg)). In performance of this Agreement, County shall also seek to promote, support and implement sustainable practices that lessen the overall environmental impacts of illegal dumpsite cleanup investigation, remediation, and removal work.
- 16. Contribution** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to

participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the County (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the County in such proportion as is appropriate to reflect the relative fault of the State, on the one hand, and of the County, on the other hand, in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State, on the one hand, and of the County, on the other hand, shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the County is jointly liable with the State (or would be if joined in the Third Party Claim), the County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the County, on the one hand, and of the State, on the other hand, in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the County, on the one hand, and of the State, on the other hand, shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

- 17. Indemnification by Subcontractors** County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon 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 County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.
- 18. Subcontractor Insurance Requirements** County shall require its first tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under EXHIBIT B and meet the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between County and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to DEQ. County shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall 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 or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a contractor to work under a Subcontract when the County is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.
- 19. Federal Fund Requirements** Any recipient of federal grant funds, pursuant to this agreement with the State, shall assume sole liability for that recipient's breach of the conditions of the Grant, and shall, upon recipient's breach of grant conditions that requires the state to return funds to the federal grantor, hold harmless and indemnify the state for an amount equal to the funds received under this agreement; or if legal limitations apply to the indemnification ability of the recipient of grant funds, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- 20. Alternative Dispute Resolution** The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- 21. Merger Clause** THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. COUNTY, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY

ACKNOWLEDGES THAT HE/SHE HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

22. Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

THE PERSONS SIGNING THIS AGREEMENT REPRESENT AND WARRANT THAT THEY HAVE THE POWER AND AUTHORITY TO ENTER INTO THIS AGREEMENT.

Approved by County:

Jim Bernard, Chair, Clackamas County Board of Commissioners Date

Approved by DEQ:

Lydia Emer, Land Quality Division Administrator Date

Index/PCA/Project

Brian Boling, Central Services Division Administrator - DPO Date

EXHIBIT A**INTERGOVERNMENTAL AGREEMENT
Clackamas County Illegal Dumpsites****STATEMENT OF WORK**

The primary goal of the work to be performed under this Agreement is to clean up hazardous wastes illegally dumped in rural Clackamas County.

The Work to be performed under this Agreement includes the following:

County shall:

1. Identify and prioritize dumpsites that appear to meet reimbursement eligibility criteria identified in Exhibit D
2. Email a completed copy of Exhibit D including site specific information to DEQ's Agreement Administrator for each dumpsite at which County intends to initiate sampling or cleanup activities. Until DEQ has reviewed the completed Exhibit D and submitted the approved eligibility confirmation form to the County, any expenses incurred by the County on a given dumpsite are the obligation of the County. Only those expenses for eligible work activities that County incurred after DEQ's submittal of the eligibility confirmation form to the County will be considered by DEQ for reimbursement.
3. Examine the waste before removal, suspend removal activities and notify DEQ within 24 hours of discovery of any evidence that identifies the parties responsible for the illegal disposal until DEQ authorizes County to resume eligible work activities.
4. Conduct work to clean up the dumpsite after County's receipt of signed eligibility confirmation form from DEQ. Eligible work activities include, but are not limited to:
 - A. Sampling and analyzing material from the dumpsite to verify the material is a hazardous substance.
 - B. Removing and legally disposing of hazardous materials from the dumpsite.
 - C. Procure contractor(s), if necessary, to remove and legally dispose of hazardous material from the dumpsite or to investigate and address surface water, groundwater, or soil contamination. If the hazardous material contains asbestos, a licensed asbestos abatement contractor must remove the asbestos-containing material. County may review this list of licensed asbestos abatement contractors: <https://www.oregon.gov/deq/FilterDocs/asb-contr.pdf>
5. Ensure that those staff or contractors who perform the removal or remedial actions have the required licenses, certifications and training to safely and effectively clean up the hazardous materials.

DEQ will:

1. Review all completed copies of Exhibit D received from County.
2. Perform any needed site inspections, as determined by DEQ, prior to approving Exhibit D.
3. Sign and return a confirmation sheet to County if Exhibit D is approved by DEQ.
4. Perform any needed site inspections, as determined by DEQ, prior to approving any reimbursement request received from County.

*The maximum, not-to-exceed compensation payable to County under this Agreement, which includes any allowable expenses, is **\$20,000**. Any additional costs will be the responsibility of County.*

**EXHIBIT B
INTERGOVERNMENTAL AGREEMENT
Clackamas County Illegal Dumpsites**

Subcontractor Insurance Requirements

All subcontractors shall obtain at their expense and keep in effect during the term of the contract the following insurance types:

1. Commercial General Liability Insurance policy including personal and advertising injury liability, products and completed operations and contractual liability coverage for indemnity provided under this contract. Coverage shall be occurrence based in an amount not less than \$1 million per occurrence and \$2 million annual aggregate.

2. Workers' Compensation Insurance All employers, including Contractor, that employ subject workers who work under this contract 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. Contractor shall ensure that each of its sub-contractors complies with these requirements.

Automobile Liability Insurance covering contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1 million for bodily injury and property damage. This coverage may be written in combination with the commercial general liability insurance (with separate limits for commercial general liability and automobile liability).

It is the County's responsibility to assess each risk specific to the work/cleanup needed and ensure there are insurance policies and coverage limits in place to match the risks the work brings to the County. These risk-specific policies may include but are not limited to:

- Pollution Liability (including sudden accidental and gradual pollution and related cleanup costs as well as endorsements specific to the risks,
- Marine Protection and Indemnity (including pollution) for risks of pollution cleanup related to water,
- Aircraft Liability or Drone Liability, if needed for the specific project.

There may also be more or different kinds of coverage needed to address the risks related to the project.

ADDITIONAL INSURED. The Commercial General Liability insurance and Automobile Liability insurance must include the **State of Oregon, its officers, employees and agents as Additional Insureds** but only with respect to the contractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

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

NOTICE OF CANCELLATION OR CHANGE. The contractor or its insurer must provide 30 days' written notice to County before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE. County shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

State of Oregon

Department of Environmental Quality

Memorandum

Date: July 15, 2019

To: Lydia Emer, Land Quality Division Administrator

From: Audrey O'Brien, Northwest Region Materials Management Program

Through: Mike Zollitsch, Acting Manager, Emergency Response and Cleanup Section, Headquarters *mjz*

Subject: Request for Orphan Site Designation – Clackamas County Illegal Dumpsites ECSI #6351

The purpose of this memorandum is to request official designation of illegal dumpsites located within Clackamas County, meeting specific criteria outlined in the Eligibility Confirmation Checklist attached hereto as Attachment 1, as Solid Waste Orphan Sites under Oregon Revised Statute (ORS) 465.381 and Oregon Administrative Rule 340-122-0530. This designation will enable DEQ to use the Solid Waste Orphan Site Account to fund site investigation, stabilization, and cleanup activities. ORS 465.381(6)(a) allows DEQ to use the Solid Waste Orphan Site Account for DEQ expenses at sites where the responsible party is “unknown or is unwilling or unable to undertake all required removal or remedial action.” As described in this memorandum, the parties potentially liable for contamination at these sites are unknown.

Background

Significant illegal dumping occurs in Clackamas County every year. One local government entity recovers over 50,000 cubic yards of waste from illegal dumpsites every year. Wastes dumped often include hazardous substances such as asbestos and oil. These illegal dumpsites can vary in size, composition of dumped materials, and potential threat to human health or the environment. Therefore, DEQ is including with this Orphan Declaration an eligibility confirmation checklist (Attachment 1) that provides requirements that each dumpsite must meet to qualify as a Solid Waste Orphan Site eligible for cleanup funding under this Orphan Declaration.

Summary of Site Issues

- Hazardous substances routinely encountered at these dumpsites include: asbestos containing materials, abandoned vehicles that may contain spent chemicals, mercury switches, asbestos, and other hazardous substances, and large appliances such as refrigerators, which potentially contain freon and other hazardous substances.
- Potential risks to human health and/or the environment will vary from site to site but hazardous materials found dumped on the sites often include: asbestos fibers, which are a known human carcinogen, used oils and other hazardous substances, which could enter waterways and harm aquatic species and recreational users, and toxic chemicals, which could contaminate nearby drinking water sources. Dumped materials can also generate gases and increase fire risks, and off-gassing from waste materials could adversely impact the health of humans in the area.
- The dumpsites range in size from one abandoned vehicle to numerous truck loads of various materials. Smaller dumpsites may not meet Solid Waste Orphan Site eligibility

criteria; DEQ will determine eligibility and funding priority after receiving the completed checklist.

- These sites need to be cleaned up quickly to discourage additional dumping.
- If the dumped material is suspected to contain asbestos, it needs to be sampled and, if the materials are found to contain asbestos, licensed asbestos contractors must be used to dispose of the material. If the materials are found not to contain asbestos but contains other hazardous substances, removal of the materials from the Site may be performed to help deter additional dumping of potentially hazardous materials.

Verificaiton of Site Eligibility

- Documentation of DEQ concurrence on the attached eligibility confirmation checklist will be required in order to fund cleanup actions within Clackamas County from the Solid Waste Orphan Site Account. Criteria include: known hazardous material, suspected, unknown hazardous substances, potential of hazardous material to adversely impact human health and/or the environment, evidence the site received domestic solid waste, and a determination of whether a responsible party is able to address the problem. Only those sites meeting eligibility requirements may be designated Orphans and be eligible to receive Solid Waste Orphan Site Account funding.
- All decisions on designation of Orphan status and funding eligibility will be made on a site specific basis.

Site Owner/Operator Information

- Property owners of the dumpsites in Clackamas County likely to be declared Orphans include, but may not be limited to, the following private and public entities: US Forest Service, US Bureau of Land Management, Clackamas County, Tree Farms, Timber Companies, and Portland General Electric. Property owners will not be held liable by DEQ for the cost of clean up activites if they were not involved in the dumping and did not do anything to exacerbate the illegal dumping.
- Cleanups at facilities owned by the State are excluded from funding in this declaration per ORS 465.381(6)(B)(b).
- Potential responsible parties include persons and entities illegally disposing of waste at the dumpsites. The workers conducting the removal activities shall examine the waste before removal for any evidence that identifies the responsible parties.

Immediate Action is Critical

DEQ has determined that contamination at illegal dumpsites in Clackams County meeting the criteria detailed above poses significant current and ongoing threats to human health and the environment, and that immediate investigative, removal, and/or remedial actions are needed to reduce or eliminate these threats. DEQ recommends using funds from the Solid Waste Orphan Site Account to evaluate, design, and implement appropriate response actions.

With the approval of Orphan designation for these sites, DEQ's Business Office will begin using the Solid Waste Orphan Site Account to pay for Account-eligible activities. Additionally, this approval enables the transfer of any appropriate prior expenses to DEQ's Solid Waste Orphan Site Account. If further investigation identifies parties responsible for contamination who are able to pay Orphan costs that DEQ incurs at any of these sites, DEQ will seek reimbursement of costs from the respective responsible parties.

Please sign below to approve this request for designation of the Clackamas County Illegal Dumpsites project as an Orphan Site, and to authorize use of the Solid Waste Orphan Site Account.



Lydia Emer, Administrator
Land Quality Division

July 23, 2019
Date

Attachment 1 – Clackamas County Illegal Dumpsite Funding Eligibility Confirmation

Attachment 1

Clackamas County Illegal Dumpsite

Funding Eligibility Confirmation

To: ***SWOSA staff oversight name***

From: ***local government name***

Contract number: _____

Date: _____

Cleanup location: _____

1. What actions need to be performed at the site (these are actions that can be funded by SWOSA):

- Testing for asbestos
- Asbestos removal
- Disposal costs (including for asbestos containing waste materials)
- Measures to limit access (describe): _____
- Other hazardous waste (specify): _____
- Costs associated with removing and disposing of the waste (specify): _____

2. Hazardous substances observed:

- Oil (ORS 465.200(16)(c))
- Pesticides, herbicides
- Solvents
- Fuels
- Paints
- Antifreeze
- Mercury containing wastes
- PCB containing wastes (light ballasts etc.)
- Suspect asbestos containing waste
- Drums or other closed or open containers with unknown contents
- Hazardous substances pursuant to CERCLA, 42 US Code section 9601(14) (ORS 465.200(16)(b)), specify:
- Other hazardous waste (ORS 466.005), specify:

3. Does the site consist of only the following materials (these are not domestic solid wastes)?

Note: if yes, the site is not eligible. Y N

(a) Sewage sludge or septic tank and cesspool pumpings;



State of Oregon
Department of
Environmental
Quality

Northwest Region
Materials
Management
Program
700 NE Multnomah St.
Suite 600
Portland, OR 97232
Phone: 503-229-5696
800-452-4011
Fax: 503-229-5850
Contact: Heather
Kuoppamaki
www.oregon.gov/DEQ

*DEQ is a leader in
restoring, maintaining
and enhancing the
quality of Oregon's air,
land and water.*

- (b) Building demolition or construction wastes and land clearing debris;
- (c) Source separated recyclable materials, or material recovered at a disposal site for recycling;
- (d) Industrial waste; or
- (e) Waste received at an ash monofill from an energy recovery facility.

4. Risk to the environment or human health:

- The waste has the potential to adversely impact a surface water body.
- The site has the potential contaminate soil or groundwater
- Other, specify: _____

5. Scope of the site (approximate quantity of waste): _____

6. Property ownership type:

- Federal
- Local government
- Private: property owner name: _____
- State (state lands are excluded from funding in this declaration)

7. Methods to stop recontamination of the site:

- Barriers to vehicles (bollards, boulders, etc.)
- Signage
- Enforcement
- Other (describe) _____

8. Attach photos and other documentation describing conditions at the cleanup location.

9. If this is private property, has the owner been contacted? Did they contribute to the disposal site? If the property owner contributed to the disposal site, the site is not eligible.

10. Attach documentation of access authorization for cleanup.

11. Describe site investigation actions and what was learned, including information identifying the source of the waste, how the waste was dumped, whether the responsible party and site owner were contacted, and their ability or willingness to implement cleanup of the site.

Estimated cost to clean up the site: \$ _____

List any other funding sources available: _____

Signature, responsible party for local government

Title, government name

Date

Signature, DEQ project manager

Date

**Solid Waste Orphan Site Project
Accounting & Financial Addendum**

Orphan Site Name: Clackamas County Illegal Dumpsites Orphan

Cost Incurred (estimated)¹:

Direct Costs	\$ 0
LQ Indirect	\$ 0
Total	\$ 0
Billable	

Amount Invoiced: \$0

Amount Recovered: \$0

Amount to transfer to Orphan Site Account at this time (see special transfer instructions):

Direct Costs	\$ 0
LQ Indirect at 91%	\$ 0
Total Orphan Costs	\$ 0

Site Information

ECSI Numbers: # 6351

ECSI Site Names: Clackamas County Illegal Dumpsites

Existing project number to be declared orphan	
Business Office Number:	
Business Office Title:	Clackamas County Illegal Dumpsite Orphan 2019 (Add Orphan)
Billable Costs Incurred:	\$0
Invoiced:	\$0
Received:	\$0
Transfer Previous Costs?:	No – no previous costs
Special Transfer Instructions:	
Comments:	Use this project for future costs.
QTime ID:	TBD
QTime Title:	TBD

Approved:

 7-15-19

Land Quality Division Manager

¹ Costs incurred are May 31, 2019 accounting.



Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

November 7, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for Service Level Agreement Amendment #2 between
Clackamas Broadband eXchange and the City of Wilsonville

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for approval for a Service Level Agreement (SLA) amendment #2 with the City of Wilsonville to define costs associated with leasing dark fiber.
Dollar Amount and Fiscal Impact	No additional revenue for CBX at this time.
Funding Source	The funding source for the cost of leased fiber will be contributed from the end user and passed along to either CBX or the City of Wilsonville.
Duration	Effective upon signature by the board the SLA amendment #2 is effective until 02/05/2025.
Previous Board Action	Board previously approved CBX to exchange fiber connections with the City of Wilsonville in 2015.
Strategic Plan Alignment	1. Build a strong infrastructure. 2. Build public trust through good government.
Contact Person	Dave Devore (503)723-4996

BACKGROUND:

Currently, CBX and the City of Wilsonville have an agreement that allows for the exchange of dark fiber on one another's network. Amendment #2 sets the rate for any additional connections either entity may wish to lease.

RECOMMENDATION:

Staff respectfully recommends approval to enter into this new agreement with the City of Wilsonville. Staff further recommends the Board delegate authority to the Technology Services Director to sign agreements necessary in the performance of this agreement.

This Service Level Agreement has been reviewed and approved by County Counsel.

Sincerely,

Dave Cummings
CIO Technology Services

AMENDMENT #2

TO THE CLACKAMAS COUNTY/CITY OF WILSONVILLE FIBER OPTIC INTERGOVERNMENTAL AGREEMENT ON SHARING DATA NETWORK

This Amendment #2 is entered into by and between the City of Wilsonville (“City”) and the Clackamas County (“County”) and it shall become part of the Fiber Optic Service Intergovernmental Agreement entered into by and between the parties on February 5, 2015 (“Agreement”) and amended on January 24, 2019.

The Purpose of the Amendment #2 is to make several changes to Section II, Shared Resources, of the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed upon that Section II is hereby amended as follows:

2. Section II, Subsection A (3), is hereby deleted and replaced with the following:

A.

(3) The City will provide the County with five (5) pair of fiber on the City’s fiber network, at no charge. The five (5) pair of fiber will be identified by the County as the need arises. Once the five (5) pairs of fiber have been selected, the County can then lease additional pairs of fiber from the City at the then-current City rates. As of the date of this Agreement, the then-current rates are \$255.00 per month.

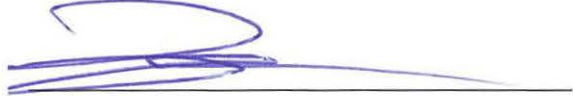
2. Section II, Subsection B (1), is hereby deleted and replaced with the following:

B.

(1) In consideration of the City’s waiver of franchise fees and provision of resources, as set forth above, the County will provide the City with six (6) pairs of fiber on the CBX fiber network, at no charge. The six (6) pairs of fiber will be identified by the City as the need arises. Once the six (6) pairs of fiber has been selected, the City can then lease additional pairs of fiber from the County at the County’s then-current rates. As of the date of this Agreement, the then-current rates are \$255.00 per month.

Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect. By signature below, the parties agree to this Amendment #2, effective upon the date of the last signature below.

City of Wilsonville



Authorized Signature

Bryan Cosgrove / City Manager

Name / Title (Printed)

9/16/19

Date

Clackamas County

Authorized Signature

Name/Title (Printed)

Date



Gregory L. Geist
Director

November 7, 2019

Water Environment Services Board
Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Declaration of Covenant of Maintenance, Release and Indemnity
Between Water Environment Services and the City of Oregon City

Purpose/Outcomes	Approval of this Agreement allows Oregon City to grant permission to use public right of way for WES infrastructure, and indemnifies City for such use.
Dollar Amount and Fiscal Impact	No immediate costs. Indemnity obligation at some point in the future might require expenditure of WES funds.
Funding Source	WES operating fund. No County general funds or property taxes are implicated by this agreement.
Duration	Permanent.
Previous Board Action/Review	None.
Counsel Review	This Agreement was reviewed and approved by County Counsel on October 30, 2019.
Strategic Plan Alignment	1) Build strong infrastructure: this enables continued existence of the security wall along Agnes for the Tri-City Plant. 2) Build public trust through good government: transparent and open statements by both WES and Oregon City regarding responsibilities and expectations for occupancy of the right of way.
Contact Person	Chris Storey, WES Assistant Director, 503-742-4543
Contract No.	N/A

BACKGROUND:

When Clackamas County Service District No. 1 (now Water Environment Services) constructed the Phase I improvements at the Tri-City Plant in 2011, the design at the time required construction of a security wall along Agnes Ave. between the public right of way and the new membrane bioreactor treatment train. The ultimate construction of the wall encroached slightly into the public right of way along Agnes Avenue.

The issue was identified at the time of construction, and the proposed remedy was for the City of Oregon City to grant permission of occupancy of the right of way, and receive assurances that the City would not be disadvantaged because of that permission. The WES staff on the project have retired and the City engineer on the project left the city without the final documentation being executed.

City Engineering Department leadership brought the issue to WES' attention, and the attached Declaration of Covenant of Maintenance, Release and Indemnity was negotiated to resolve the long-outstanding issue. No immediate payment or consideration is required. Rather, the

agreement contemplates WES being responsible for costs relating to its occupancy of the right of way, and indemnifying the City of Oregon City for actions relating to the same.

If approved by the BCC as the governing body of Water Environment Services, it would then be submitted to the City of Oregon City for final approval.

This Agreement was reviewed and approved by County Counsel on October 30, 2019.

RECOMMENDATION:

WES staff recommends the Board, acting as the governing body of Water Environment Services, approve the Declaration of Covenant of Maintenance, Release and Indemnity between Water Environment Services and the City of Oregon City.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Greg Geist", with a long horizontal flourish extending to the right.

Greg Geist
Director, Water Environment Services

Attachments:

- Declaration of Covenant of Maintenance, Release and Indemnity
 - Exhibit A – legal property description
 - Exhibit B – Oregon City Resolution (to be attached upon adoption of Oregon City)
 - Exhibit C – site plan

AFTER RECORDING RETURN TO:

City of Oregon City, City Recorder
P.O. Box 3040
Oregon City, Oregon 97045-0304

City Resolution No.: _____ Public Works Permit No.: _____

Street Address: _____

Tax Map & Lot: _____ PROPERTY OWNER: _____

DECLARATION OF COVENANT OF MAINTENANCE, RELEASE AND INDEMNITY

This COVENANT OF MAINTENANCE, RELEASE AND INDEMNITY (“Covenant”) is made between

Water Environment Services, an ORS 190 Partnership hereinafter referred to as “Permittee”, and the CITY OF OREGON CITY, a municipal corporation of the State of Oregon formed pursuant to ORS Chapter 457 (the “City”).

RECITALS

A. Permittee is/are the owner(s) of certain real property located in the City of Oregon City, Clackamas County, Oregon, legally described on **Exhibit A** attached hereto and commonly known as the Tri-City Wastewater Treatment Plant located at 15941 Agnes Ave., Oregon City, OR (the “Property”).

B. Permittee has applied for City right-of-way permit (“Permit”) to maintain a permanent obstruction that is regulated and governed by Oregon City Municipal Code Chapter 12 *Streets, Sidewalks and Public Places*, Section 12.04.120 *Obstructions Permit required*.

C. The City has approved the Permit through adoption of **Resolution No.** _____ (**Exhibit B** attached hereto) allowing a wall along the west side of Agnes Avenue (“Obstruction”) within the public right-of-way as shown in the “Site Plan” **Exhibit C** attached to this Covenant. The Obstruction is solely for the Property, contingent on Permittee providing this maintenance covenant and release to the City for all activities undertaken pursuant to the Permit issued by the City pursuant to Oregon City Municipal Code section 12.04.120 *Obstructions Permit required*, which requires Permittee to maintain, and release the City from all damages resulting from, the approved permanent obstruction in the right-of- way.

D. To protect owners of neighboring properties, the City requires the Permittee to enter this Covenant as a condition to the City’s approval of building permits.

COVENANT

NOW, THEREFORE, Permittee covenants as follows:

In consideration of the issuance of the City Resolution and Permit, the undersigned (“Permittee”) hereby covenants and agrees to the following terms:

1. **Covenant to Maintain, Repair and Remove.** Permittee shall, at their sole expense (no cost to the City), themselves or through qualified independent contractors, at all times maintain the Obstruction in safe condition and good repair, and in compliance with all applicable state and local rules, regulations, and guidelines (including those adopted from time to time by the City) for the general public or remove the Obstruction as directed by the City (the City may at any time for any reason provide a thirty (30) day notice for removal of the Obstruction). Permittee or their representatives, shall obtain proper permits or approvals from the City and shall notify the City in writing 24 hours prior to any construction or repair activities for Obstruction. Furthermore, in the event Permittee fails to comply with this Covenant, Permittee hereby agrees that the City may remove or maintain said Obstruction immediately. Permittee agrees to reimburse City for costs incurred by City when complying with this Covenant as described in Section 3 below.

2. **Failures to Perform Covenant.** Except in the case of emergency, if the City determines that Permittee is not in compliance with the Covenant described in Section 1, the City or its designee shall give the Permittee written notice to perform maintenance or repair or removal work specified in the notice. If such work is not performed to the City's satisfaction within 30 days of notice, Permittee hereby grants to the City, their employees, independent contractors and designees the right to perform any and all work required to bring said Obstruction into compliance with Section 1 and Permittee hereby agrees to reimburse City for performing work as described in Section 3 below. Permittee agrees that the City or its designee may perform any emergency repair work, as determined by City, without prior notice to Permittee and that Permittee will reimburse City for emergency work as described in Section 3 below.

3. **City Under No Obligation.** The City, as well as its departments, employees, independent contractors and/or designees shall have no obligation to exercise its rights under this Covenant, including the right under Sections 1 of this Covenant, to perform the work required of the Permittee or to perform any other maintenance or repair of the Obstruction. In addition, neither the City, nor any of its departments, employees, independent contractors and/or designees shall have any liability to Permittee in connection with the exercise or non-exercise of such rights, the maintenance or repair of the Obstruction, or the failure to perform the same.

4. **Reimbursement.** If City exercises its right to maintain or repair or remove the Obstruction pursuant to Section 1 and/or Section 2, Permittee shall reimburse the City for all reasonable costs and expenses incurred in connection therewith within 30 days of receipt of an invoice. If any Permittee fails to pay invoiced amount within such period, such amount shall thereafter accrue interest at a per annum rate equal to prime rate of U.S. Bank (or its successor) plus five percent (5%). Such amount, together with any interest that has accrued, shall be a lien on the Property, which may be foreclosed in accordance with ORS Chapter 88. If Property is owned by more than one person, then each such Permittee shall be jointly and severally liable for payment of the amounts provided for in this Section 4.

5. **Liability Coverage.** Owners agree to maintain appropriate insurance liability coverage, naming the City as additional insured, per current City policy limit minimums and/or will maintain sufficient self-insurance to indemnify the City for any damages resulting from any condition or activity whether known or unknown, anticipated or unanticipated, during the time of this agreement.

6. **Release.** Subject to the limitations of the Oregon Constitution and the Oregon Tort Claims Act, Permittee does hereby release and forever discharge the City of Oregon City, and its City Commissioners, officers, agents, volunteers and employees (collectively “**Indemnitees**”) from all claims, liability, loss and demands of whatever kind or nature, either in law or in equity, arising from or related to Permittee’s activity described above and/ or otherwise authorized by the Permit. Without limiting the generality of the foregoing, Permittee understands and agrees that this Covenant discharges each of the Indemnitees from any liability or claim that Permittee may have against any of them with respect to any bodily injury, personal injury, illness, death, or property damage that may arise from or relate to Permittee’s activity described above and/or otherwise authorized by the City’s Decision. Permittee hereby expressly and specifically assumes the risk of injury or harm or damage to person or property with respect to the activity described above or otherwise authorized by the Permit.

7. **Indemnity.** Permittee hereby agrees to indemnify, defend (with legal counsel acceptable to the Indemnitees) and hold the Indemnitees harmless from all claims, liability, loss, damage, cost or expense that the Indemnitees may sustain or incur arising from or relating to Permittee’s activity described above and/or otherwise authorized by the Permit. The foregoing indemnity shall include but not be limited to any claims, liability, loss, damage, cost or expense due to any bodily injury, personal injury, illness, death, or property damage arising from or related to Permittee’s activity described above and/or otherwise authorized by the Permit.

8. **Run with the Land.** The parties’ rights and obligations contained herein shall run with the land and inure to the benefit of, and shall be binding upon, the City and Permittee and their respective successors and assigns (including, without limitation, subsequent owners of the Property or lots in the Property and any homeowner’s association owning common areas in the Property).

9. **Interpretation.** The undersigned agrees that this Covenant is intended to be as broad and inclusive as is permitted by the laws of Oregon, and that if any portion of this Covenant is held invalid, it is agreed that the remaining portion shall continue in full force and effect.

10. **Enforcement.** Reserved.

11. **Authority.** In the event the undersigned is a limited liability company, corporation or other organization, the individual signing below represents and warrants he/she has authority to execute this Covenant on behalf of such organization.

12. **Binding Effect.** The indemnity described in Section 7, shall be binding upon Permittee’s agents, guests, licensees, heirs, personal representatives, executors, successors and assigns.

13. **Jurisdiction.** In the event of any dispute between the undersigned and any or all of the Indemnitees, such dispute shall be governed by Oregon law and the exclusive jurisdiction for such dispute shall be the State courts for the State of Oregon, and the exclusive venue for such dispute shall be Clackamas County, Oregon.

14. **Compliance with Laws.** Permittee shall comply with all laws, ordinances and regulations, and the terms of any permit issued by the City, applicable to Permittee in connection with Permittee's activity described above.

IN WITNESS WHEREOF, the PERMITTEE has executed this instrument this _____ day of November, 2019. The person(s) whose name(s) is/are subscribed to the instrument acknowledge that he/she/they executed the instrument in his/her/their legally authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

[Signature Page(s) Follow]

PERMITTEE: Water Environment Services

As shown on Page 1 (name of organization or individual property owner(s))

Signature No. 1

Signer's printed name

Title (if applicable)

STATE OF OREGON)
)
County of _____)

This record was acknowledged before me on (month & day) _____, 2019

by _____, as _____
Signer's printed name Title (write "N/A" if not applicable)

of _____
Name of Corporation on whose behalf record is executed (write "N/A" if not applicable)

Stamp notary seal:

WITNESS my hand and official seal.

Signature of Notary Public

My commission expires: _____

Accepted on behalf of the City of Oregon City:

By: John M. Lewis, Public Works Director

Attest: Kattie Riggs, City Recorder

Insert exhibits on separate subsequent sheets.

Exhibit A is a legal description of the subject property provided by a professional land surveyor, stamped with their seal, and having a 1/8th-inch or larger font size (8.5-inch by 11-inch page).

Exhibit B is the signed Resolution having a 1/8th-inch or larger font size (8.5-inch by 11-inch page is preferred).

Exhibit C is a site plan having a 1/8th-inch or larger font size (8.5-inch by 11-inch page).

NOTE:

Please remit the required processing and recording fee with this document submittal.

Photostatic copies of reduced tax maps may not meet the above described map requirements – verify with the Clackamas County Recorder.

All pertinent documents must be approved and processed by the City of Oregon City prior to the recording of partition & subdivision plats by the Clackamas County Surveyors Office – allow ample time for the City to process this document.

EXHIBIT A

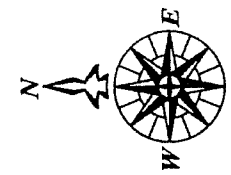
SN2008-317 sheet 2 of 3

Clackamas County Surveyor
 Received 10-10-08
 Accepted for filing 11-3-08
 Survey Number SN2008-317

RECORD OF SURVEY

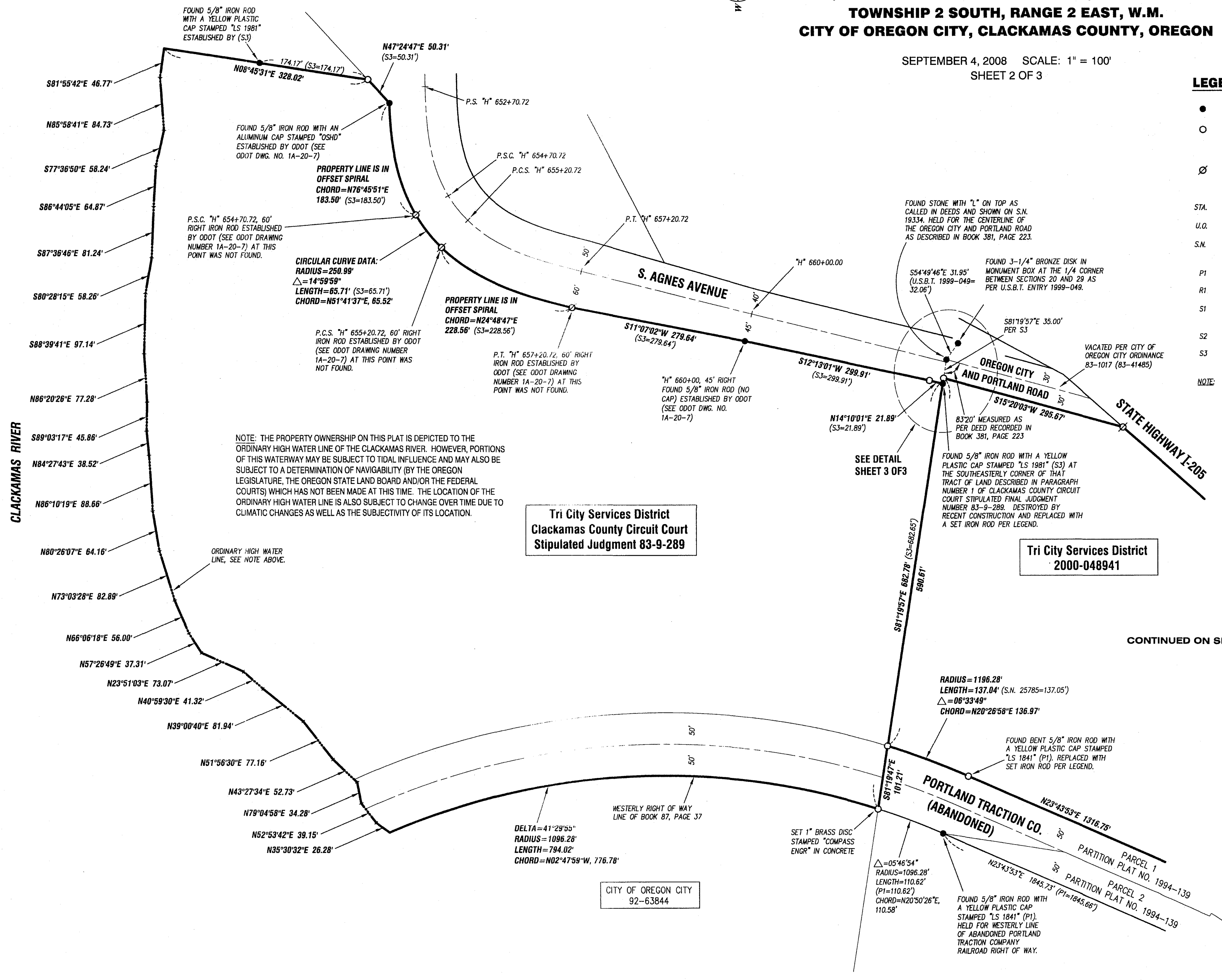
LOCATED IN THE S.W. 1/4 OF SECTION 20,
 S.E. 1/4 OF SECTION 20 AND THE N.W. 1/4 OF SECTION 29
 TOWNSHIP 2 SOUTH, RANGE 2 EAST, W.M.
 CITY OF OREGON CITY, CLACKAMAS COUNTY, OREGON

SEPTEMBER 4, 2008 SCALE: 1" = 100'
 SHEET 2 OF 3



LEGEND:

- DENOTES MONUMENT FOUND AS NOTED
 - DENOTES 5/8" DIAMETER BY 30" LONG IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "COMPASS ENGINEERING", UNLESS OTHERWISE NOTED, SET ON SEPTEMBER 4, 2008
 - ⊗ DENOTES 5/8" DIAMETER BY 30" LONG IRON ROD WITH AN ALUMINUM CAP STAMPED "COMPASS ENG." SET ON SEPTEMBER 4, 2008
 - STA. STATION
 - U.O. UNKNOWN ORIGIN
 - S.N. DENOTES SURVEY NUMBER ON FILE WITH CLACKAMAS COUNTY SURVEYOR'S OFFICE
 - P1 PARTITION PLAT NO. 1994-139
 - R1 DOCUMENT NUMBER 74-10037
 - S1 ODOT DRAWING NO. 1A-20-7 (CLACKAMAS RIVER-WEST LINN SECTION, EAST PORTLAND FREEWAY)
 - S2 S.N. 7103
 - S3 S.N. 19334
- NOTE: IRON PIPES NOTED ARE MEASURED INSIDE DIAMETER.



NOTE: THE PROPERTY OWNERSHIP ON THIS PLAT IS DEPICTED TO THE ORDINARY HIGH WATER LINE OF THE CLACKAMAS RIVER. HOWEVER, PORTIONS OF THIS WATERWAY MAY BE SUBJECT TO TIDAL INFLUENCE AND MAY ALSO BE SUBJECT TO A DETERMINATION OF NAVIGABILITY (BY THE OREGON LEGISLATURE, THE OREGON STATE LAND BOARD AND/OR THE FEDERAL COURTS) WHICH HAS NOT BEEN MADE AT THIS TIME. THE LOCATION OF THE ORDINARY HIGH WATER LINE IS ALSO SUBJECT TO CHANGE OVER TIME DUE TO CLIMATIC CHANGES AS WELL AS THE SUBJECTIVITY OF ITS LOCATION.

Tri City Services District
 Clackamas County Circuit Court
 Stipulated Judgment 83-9-289

Tri City Services District
 2000-048941

CONTINUED ON SHEET 3 OF 3

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
 JULY 14, 1978
 DON DEVLAMINCK
 1634

DATE OF SIGNATURE: 10/24/08
 EXPIRES 12/31/2009

Survey prepared by:
 Compass Engineering
 4105 International Way, Suite 501
 Milwaukie, Oregon 97222
 Phone: 503-653-9093
 6589 Bnd3.dwg (MMM)
 Job No. 6589 (Survey)

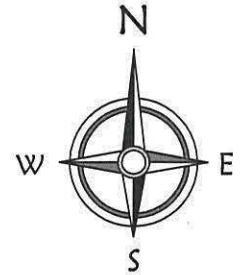
EXHIBIT C
PAGE 1 OF 2

TAX LOT 503
MAP 2-2E-20
TRI-CITY SERVICES DISTRICT

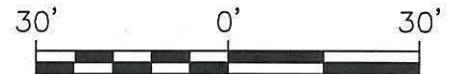
7' WALL ENCROACHMENT

S78°52'58"E
7.00'
EAST EDGE OF
WALL IS 0.7' EAST
OF RIGHT OF WAY

EAST EDGE OF WALL
COLUMN IS 6.0' EAST
OF RIGHT OF WAY



Scale: 1" = 30'



S. AGNES AVENUE

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 14, 1978
DON DEVLAEINCK
1634

DATE OF SIGNATURE: 7/10/2012
EXPIRES 12/31/2013

EAST EDGE OF WALL
COLUMN IS 0.7' EAST
OF RIGHT OF WAY

EAST EDGE OF WALL
COLUMN IS 0.7' EAST
OF RIGHT OF WAY

N78°52'58"W
7.00'

TRUE POINT OF BEGINNING
THIS POINT IS LOCATED N14°10'01"E 21.89',
AND N12°13'01"E 299.91', AND N11°07'02"E
14.30' FROM POINT "A"

POINT "A"
SOUTHEASTERLY CORNER OF
TRACT DESCRIBED IN
PARAGRAPH NO. 1, CLACKAMAS
COUNTY CIRCUIT COURT
STIPULATED FINAL JUDGMENT
NO. 83-9-289.

POINT OF COMMENCEMENT
BRONZE DISK IN A MONUMENT BOX AT 1/4
CORNER BETWEEN SECTIONS 20 AND 29

STONE WITH "L"
N54°49'46"W
31.95'

N81°19'57"W
39.25'

N11°07'02"E 223.00'
S11°07'02"W 223.00'

6589 Exh7.dwg

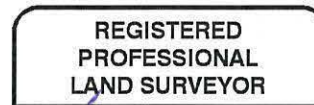
EXHIBIT C
PAGE 2 OF 2

WALL ENCROACHMENT

A 7.00 FOOT WIDE STRIP OF LAND SITUATED IN SECTION 20, TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRONZE DISK IN MONUMENT BOX AT THE 1/4 CORNER BETWEEN SECTIONS 20 AND 29, TOWNSHIP 2 SOUTH, RANGE 2 EAST, W.M., AS PER U.S.B.T. ENTRY 2012-018, CLACKAMAS COUNTY SURVEY RECORDS; THENCE NORTH $54^{\circ}49'46''$ WEST 31.95 FEET TO A STONE WITH "L"; THENCE NORTH $81^{\circ}19'57''$ WEST 39.25 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LS 1981" AT THE SOUTHEASTERLY CORNER OF THAT TRACT OF LAND DESCRIBED IN PARAGRAPH NUMBER 1 OF CLACKAMAS COUNTY CIRCUIT COURT STIPULATED FINAL JUDGMENT NUMBER 83-9-289; THENCE ALONG THE EASTERLY LINE OF SAID TRACT OF LAND DESCRIBED IN PARAGRAPH NUMBER 1 OF CLACKAMAS COUNTY CIRCUIT COURT STIPULATED FINAL JUDGMENT NUMBER 83-9-289 NORTH $14^{\circ}10'01''$ EAST 21.89 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "COMPASS ENGINEERING"; THENCE CONTINUING ALONG SAID EASTERLY LINE NORTH $12^{\circ}13'01''$ EAST 299.91 FEET TO A 5/8" IRON ROD; THENCE CONTINUING ALONG SAID EASTERLY LINE NORTH $11^{\circ}07'02''$ EAST 14.30 FEET TO THE TRUE POINT OF BEGINNING OF THE STRIP TO BE DESCRIBED; THENCE CONTINUING ALONG SAID EASTERLY LINE NORTH $11^{\circ}07'02''$ EAST 223.00 FEET; THENCE LEAVING SAID EASTERLY LINE SOUTH $78^{\circ}52'58''$ EAST 7.00 FEET; THENCE SOUTH $11^{\circ}07'02''$ WEST 223.00 FEET; THENCE NORTH $78^{\circ}52'58''$ WEST 7.00 FEET TO THE TRUE POINT OF BEGINNING.

BASIS OF BEARINGS: SN 2008-317



DATE OF SIGNATURE: 7/10/2012

EXPIRES 12/31/2013