



# AGENDA

## Thursday January 18, 2018 - 10:00 AM BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2018-02

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

### **SERVICE DISTRICT NO. 5**

Wendi Coryell, Dept. of Transportation & Development will present all 9 assessment areas.

1. Board Order No. \_\_\_\_\_ Forming a 17-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 24-15, Shadow Mountain 17-Lot Subdivision
2. Board Order No. \_\_\_\_\_ Forming a Three Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 21-16, Three Lot Partition
3. Board Order No. \_\_\_\_\_ Forming a 119-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 40-16, Pleasant Valley Villages Phase One 119-Lot Subdivision
4. Board Order No. \_\_\_\_\_ Forming an 898-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 54-16, Pleasant Valley Villages Phase 2-13 898-Lot Subdivision
5. Board Order No. \_\_\_\_\_ Forming a Three Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 10-17, Three Lot Partition
6. Board Order No. \_\_\_\_\_ Forming a 7-Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 53-17, Berry Meadows 7-Lot Subdivision
7. Board Order No. \_\_\_\_\_ Forming a One Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 20-16, Gethsemani Funeral Home Addition
8. Board Order No. \_\_\_\_\_ Forming a One Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 35-16, 16,000 Sq. Ft. Light Industrial Building
9. Board Order No. \_\_\_\_\_ Forming a One Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 18-17, Clackamas Fire District New Building

**III. PUBLIC DISCUSSION ITEM** *(The following items will be individually presented by County staff or other appropriate individuals. Citizens wishing to comment on a discussion item must fill out a blue card provided on the table outside of the hearing room prior to the beginning of the meeting.)*

**County Counsel**

1. Board Order No. \_\_\_\_\_ Amending the Library District Master Order (Chris Storey, County Counsel)

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

**A. Health, Housing & Human Services**

1. Approval of an Intergovernmental Agreement between the Housing and Community Development Division and the Colton Water District for the Virgil Road Waterline Project in Colton – *Housing & Community Development*
2. Approval of Agreement No. 17-18530 with Ride Connection to Provide Funding for Rides Provided by Members of the Clackamas County Transportation Consortium – *Social Services*
3. Approval of an Agency Service Contract with Clackamas County Children’s Commission for Kindergarten Partnership Innovation Services – *Children, Youth & Families*
4. Approval of an Intergovernmental Agreement with Clackamas Education Service District for Focused Child Care Networks – *Children, Youth & Families*
5. Approval of an Intergovernmental Agreement with Clackamas Education Service District for Kindergarten Partnership and Innovation Services – *Children, Youth & Families*
6. Approval of an Agency Service Contract with Metropolitan Family Service for Family Resource Coordination – *Children, Youth & Families*
7. Approval of an Agency Service Contract with Metropolitan Family Service for Kindergarten Partnership Innovation Services – *Children, Youth & Families*
8. Approval of an Agency Service Contract with Northwest Family Services for Family Resource Coordination – *Children, Youth & Families*
9. Approval of Agency Service Contract with Todos Juntos for Family Resource Coordination – *Children, Youth & Families*
10. Approval of an Agency Service Contract with Todos Juntos for Kindergarten Partnership Innovation Services – *Children, Youth & Families*
11. Approval of Amendment No. 2 to the Professional, Technical, and Personal Services Agreement with the Living Room for Youth/Young Adult Peer Support Services – *Behavioral Health*
12. Approval of Amendment No. 2 to the Professional, Technical, and Personal Services Agreement with Stay Clean, Inc. for Peer Support Services – *Behavioral Health*
13. Approval of an Intergovernmental Agreement with Washington County, for Public Health Modernization within the Communicable Disease Program – *Public Health*
14. Approval of a Personal Professional Services Contract with Folk-Time, Inc. for Peer Support Services at the Riverstone Crisis Clinic for the Safety Net Program – *Procurement*

**B. Department of Transportation & Development**

1. Approval of an Intergovernmental Agreement with Clackamas River Water for Use of a Temporary Construction Easement Related to the Clackamas River Bridge Construction Project

**C Elected Officials**

1. Approval of Previous Business Meeting Minutes – *BCC*
2. Resolution No. \_\_\_\_\_ Appointing Justices of the Peace Pro Tempore for the Clackamas County Justice of the Peace District – *Justice Court*

**D Technology Services**

1. Approval of an Amendment to the Service Level Agreement between Clackamas Broadband eXchange and the State of Oregon for Fiber Lateral

**E County Counsel**

1. Authorization to Enter into A Contingent Fee Contract with D'Amore Law Group, Whaley Law Group, and Law office of Thomas L. Young to Evaluate and Initiate Opioids Litigation

**V. COUNTY ADMINISTRATOR UPDATE**

**VI. COMMISSIONERS COMMUNICATION**

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



M. BARBARA CARTMILL  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Board Order and Public Hearing Forming a 17-Lot Assessment Area  
Within Clackamas County Service District No. 5, Assessment  
24-15 Shadow Mountain 17-Lot Subdivision

<b>Purpose/Outcomes</b>	Approval of this Board Order will create a new assessment area in Clackamas County Service District No. 5. This process is necessary and customary with new development to allow for the installation of adequate street lights.
<b>Dollar Amount and Fiscal Impact</b>	Operational costs for street lighting is paid by direct assessment against benefited property. As a result of the signing of this Board Order, Clackamas County Service District No. 5 will add the attached area to the assessment rolls for the District. This area falls under rate schedule H; the current rate for this schedule is \$91.88 per tax lot each year.
<b>Funding Source</b>	Assessments for street lighting will be levied against the properties within this area effective on the installation date furnished to the district by Portland General Electric Company as the official date that the properties within this area began receiving service.
<b>Duration</b>	N/A
<b>Previous Board Contact</b>	None
<b>Strategic Plan Alignment</b>	Promotes a safe, healthy and secure community through the enhanced nighttime visibility created with new street lighting.
<b>Contact Person</b>	Wendi Coryell, Service District Specialist - DTD Engineering 503-742-4657 (Phone)   wendicor@clackamas.us

**BACKGROUND:**

Street lighting is a condition of approval for new developments within Service District No. 5. As such, it has been included as a condition of approval for this development. Even though commercial/multi-family assessment areas may be comprised of only one to several tax lots, they frequently encompass significant stretches of road frontage in areas that will benefit significantly from street lighting. Notice of the time and place of the hearing was mailed by first class mail to the current addresses as listed by the Clackamas County Assessment office. The notice specifically noted that a public hearing was scheduled for January 18, 2018, to hear objections or file a remonstrance to approval of the new assessment area. Pursuant to statute, a minimum of 50% of the affected property owners must remonstrate to deny the formation of the new assessment area.



These documents have been reviewed and approved by Counsel.

**RECOMMENDATION:**

If remonstrances from more than 50% of the property owners in the proposed assessment area for street lighting *are not* received by the end of the public hearing, it is recommended that the Board of County Commissioners, acting in the capacity of governing board for Clackamas County Service District No. 5, approve this Order which will allow Clackamas County Service District No. 5 to proceed with the formation of a new assessment area for street lighting.

Respectfully submitted,

Wendi Coryell, Service District Specialist, CCSD#5

In the Matter of the Formation  
of an Assessment Area 24-15  
(Shadow Mountain 17-Lot Subdivision)  
Within Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 1 of 2

This matter coming before the Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 5 "District" and it appearing to the "Board", that the properties within Assessment Area 24-15, Shadow Mountain 17-Lot Subdivision, 15791 SE Hwy 224 have requested street light service, and that the formation of new assessment areas within the District is necessary for the installation of street lights; and

It further appearing to the Board that the method of financing construction, operation, and maintenance of service facilities is to be assessments against property benefited by street light facilities; and

It further appearing to the Board that rates for street lighting as established by Order No. 2017-75 and subsequent rate change Orders shall be applied to Assessment Area 24-15, Shadow Mountain 17-Lot Subdivision, with fractional year assessments prorated from the date of installation and in accordance with Ordinance Number 94-1368 pursuant to ORS 451.495 as follows:

Rate Schedule H: \$91.88 per tax lot each year, applied to residential properties; and

It further appearing to the Board that the lots in the rate schedules receive an equal benefit for street lighting services; and

It further appearing to the Board that the Department of Transportation and Development has given notice of public hearing as required by Order Number 94-1368 and ORS 451.495, and that said public hearing was duly held on the 18<sup>th</sup> day of January, 2018, and that the District did not receive written objections prior to the conclusion of the hearing from more than 50% of the property owners representing more than 50% of the affected property, now therefore:

In the Matter of the Formation  
of an Assessment Area 24-15  
(Shadow Mountain 17-Lot Subdivision)  
Within Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 2 of 2

IT IS HEREBY ORDERED that properties in the Assessment Area as described below be subject to an assessment for street lighting:

Assessment Area 24-15 All lots in the Shadow Mountain 17-Lot Subdivision, development, 22E13AA06300; and

IT IS FURTHER ORDERED that an assessment roll be prepared by the Department of Transportation and Development for Clackamas County showing the amount of each yearly assessment, the property against which it has been assessed, the owner thereof, and such additional information as is required to keep a complete and permanent record of the assessment; and

IT IS FURTHER ORDERED that the Department of Transportation and Development proceed to construct the street lighting facilities in accordance with District rules and guidelines.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**  
**as the governing body of Clackamas County Service District No. 5**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary



M. BARBARA CARTMILL  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Board Order and Public Hearing Forming a Three Lot Assessment Area  
Within Clackamas County Service District No. 5, Assessment  
21-16 Three Lot Partition

<b>Purpose/Outcomes</b>	Approval of this Board Order will create a new assessment area in Clackamas County Service District No. 5. This process is necessary and customary with new development to allow for the installation of adequate street lights.
<b>Dollar Amount and Fiscal Impact</b>	Operational costs for street lighting is paid by direct assessment against benefited property. As a result of the signing of this Board Order, Clackamas County Service District No. 5 will add the attached area to the assessment rolls for the District. This area falls under rate schedule W; the current rate for this schedule is \$245.00 per tax lot each year.
<b>Funding Source</b>	Assessments for street lighting will be levied against the properties within this area effective on the installation date furnished to the district by Portland General Electric Company as the official date that the properties within this area began receiving service.
<b>Duration</b>	N/A
<b>Previous Board Contact</b>	None
<b>Strategic Plan Alignment</b>	Promotes a safe, healthy and secure community through the enhanced nighttime visibility created with new street lighting.
<b>Contact Person</b>	Wendi Coryell, Service District Specialist - DTD Engineering 503-742-4657 (Phone)   wendicor@clackamas.us

**BACKGROUND:**

Street lighting is a condition of approval for new developments within Service District No. 5. As such, it has been included as a condition of approval for this development. Even though commercial/multi-family assessment areas may be comprised of only one to several tax lots, they frequently encompass significant stretches of road frontage in areas that will benefit significantly from street lighting. Notice of the time and place of the hearing was mailed by first class mail to the current addresses as listed by the Clackamas County Assessment office. The notice specifically noted that a public hearing was scheduled for January 18, 2018, to hear objections or file a remonstrance to approval of the new assessment area. Pursuant to statute, a minimum of 50% of the affected property owners must remonstrate to deny the formation of the new assessment area.

These documents have been reviewed and approved by Counsel.

**RECOMMENDATION:**

If remonstrances from more than 50% of the property owners in the proposed assessment area for street lighting *are not* received by the end of the public hearing, it is recommended that the Board of County Commissioners, acting in the capacity of governing board for Clackamas County Service District No. 5, approve this Order which will allow Clackamas County Service District No. 5 to proceed with the formation of a new assessment area for street lighting.

Respectfully submitted,

Wendi Coryell, Service District Specialist, CCSD#5

In the Matter of the Formation  
of an Assessment Area 21-16  
(Three Lot Partition) Within  
Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 1 of 2

This matter coming before the Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 5 "District" and it appearing to the "Board", that the properties within Assessment Area 21-16, Three Lot Partition, 10826 SE Idleman Rd. have requested street light service, and that the formation of new assessment areas within the District is necessary for the installation of street lights; and

It further appearing to the Board that the method of financing construction, operation, and maintenance of service facilities is to be assessments against property benefited by street light facilities; and

It further appearing to the Board that rates for street lighting as established by Order No. 2017-75 and subsequent rate change Orders shall be applied to Assessment Area 21-16, Three Lot Partition, with fractional year assessments pro-rated from the date of installation and in accordance with Ordinance Number 94-1368 pursuant to ORS 451.495 as follows:

Rate Schedule W: \$245.00 tax lot each year, applied to residential properties;  
and

It further appearing to the Board that the lots in the rate schedules receive an equal benefit for street lighting services; and

It further appearing to the Board that the Department of Transportation and Development has given notice of public hearing as required by Order Number 94-1368 and ORS 451.495, and that said public hearing was duly held on the 18<sup>th</sup> day of January, 2018, and that the District did not receive written objections prior to the conclusion of the hearing from more than 50% of the property owners representing more than 50% of the affected property, now therefore:

In the Matter of the Formation  
of an Assessment Area 21-16  
(Three Lot Partition) Within  
Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 2 of 2

IT IS HEREBY ORDERED that properties in the Assessment Area as described below be subject to an assessment for street lighting:

Assessment Area 21-16 All lots in the Three Lot Partition, development, 12E27CD03900; and

IT IS FURTHER ORDERED that an assessment roll be prepared by the Department of Transportation and Development for Clackamas County showing the amount of each yearly assessment, the property against which it has been assessed, the owner thereof, and such additional information as is required to keep a complete and permanent record of the assessment; and

IT IS FURTHER ORDERED that the Department of Transportation and Development proceed to construct the street lighting facilities in accordance with District rules and guidelines.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**  
**as the governing body of Clackamas County Service District No. 5**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary





M. BARBARA CARTMILL  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Board Order and Public Hearing Forming a 119-Lot Assessment Area  
Within Clackamas County Service District No. 5, Assessment  
40-16 Pleasant Valley Villages Phase One 119-Lot Subdivision

<b>Purpose/Outcomes</b>	Approval of this Board Order will create a new assessment area in Clackamas County Service District No. 5. This process is necessary and customary with new development to allow for the installation of adequate street lights.
<b>Dollar Amount and Fiscal Impact</b>	Operational costs for street lighting is paid by direct assessment against benefited property. As a result of the signing of this Board Order, Clackamas County Service District No. 5 will add the attached area to the assessment rolls for the District. This area falls under rate schedule W; the current rate for this schedule is \$245.00 per tax lot each year.
<b>Funding Source</b>	Assessments for street lighting will be levied against the properties within this area effective on the installation date furnished to the district by Portland General Electric Company as the official date that the properties within this area began receiving service.
<b>Duration</b>	N/A
<b>Previous Board Contact</b>	None
<b>Strategic Plan Alignment</b>	Promotes a safe, healthy and secure community through the enhanced nighttime visibility created with new street lighting.
<b>Contact Person</b>	Wendi Coryell, Service District Specialist - DTD Engineering 503-742-4657 (Phone)   wendicor@clackamas.us

**BACKGROUND:**

Street lighting is a condition of approval for new developments within Service District No. 5. As such, it has been included as a condition of approval for this development. Even though commercial/multi-family assessment areas may be comprised of only one to several tax lots, they frequently encompass significant stretches of road frontage in areas that will benefit significantly from street lighting. Notice of the time and place of the hearing was mailed by first class mail to the current addresses as listed by the Clackamas County Assessment office. The notice specifically noted that a public hearing was scheduled for January 18, 2018, to hear objections or file a remonstrance to approval of the new assessment area. Pursuant to statute, a minimum of 50% of the affected property owners must remonstrate to deny the formation of the new assessment area.

These documents have been reviewed and approved by Counsel.

**RECOMMENDATION:**

If remonstrances from more than 50% of the property owners in the proposed assessment area for street lighting *are not* received by the end of the public hearing, it is recommended that the Board of County Commissioners, acting in the capacity of governing board for Clackamas County Service District No. 5, approve this Order which will allow Clackamas County Service District No. 5 to proceed with the formation of a new assessment area for street lighting.

Respectfully submitted,

Wendi Coryell, Service District Specialist, CCSD#5

In the Matter of the Formation  
of an Assessment Area 40-16  
(Pleasant Valley Villages Phase One  
119-Lot Subdivision) Within  
Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 1 of 2

This matter coming before the Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 5 "District" and it appearing to the "Board", that the properties within Assessment Area 40-16, Pleasant Valley Villages Phase One 119-Lot Subdivision, 12525 SE 172<sup>nd</sup> Ave. have requested street light service, and that the formation of new assessment areas within the District is necessary for the installation of street lights; and

It further appearing to the Board that the method of financing construction, operation, and maintenance of service facilities is to be assessments against property benefited by street light facilities; and

It further appearing to the Board that rates for street lighting as established by Order No. 2017-75 and subsequent rate change Orders shall be applied to Assessment Area 40-16, Pleasant Valley Villages Phase One 119-Lot Subdivision, with fractional year assessments pro-rated from the date of installation and in accordance with Ordinance Number 94-1368 pursuant to ORS 451.495 as follows:

Rate Schedule W: \$245.00 per tax lot each year, applied to residential properties; and

It further appearing to the Board that the lots in the rate schedules receive an equal benefit for street lighting services; and

It further appearing to the Board that the Department of Transportation and Development has given notice of public hearing as required by Order Number 94-1368 and ORS 451.495, and that said public hearing was duly held on the 18<sup>th</sup> day of January, 2018, and that the District did not receive written objections prior to the conclusion of the hearing from more than 50% of the property owners representing more than 50% of the affected property, now therefore:

In the Matter of the Formation  
of an Assessment Area 40-16  
(Pleasant Valley Villages Phase One  
119-Lot Subdivision) Within  
Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 2 of 2

IT IS HEREBY ORDERED that properties in the Assessment Area as described below be subject to an assessment for street lighting:

Assessment Area 40-16 All lots in the Pleasant Valley Villages Phase One 119-Lot Subdivision, development, 13E31C 06200 and 23E06BA02200, 2280, 2290; and

IT IS FURTHER ORDERED that an assessment roll be prepared by the Department of Transportation and Development for Clackamas County showing the amount of each yearly assessment, the property against which it has been assessed, the owner thereof, and such additional information as is required to keep a complete and permanent record of the assessment; and

IT IS FURTHER ORDERED that the Department of Transportation and Development proceed to construct the street lighting facilities in accordance with District rules and guidelines.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**  
**as the governing body of Clackamas County Service District No. 5**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary



M. BARBARA CARTMILL  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Board Order and Public Hearing Forming a 898-Lot Assessment Area  
Within Clackamas County Service District No. 5, Assessment  
54-16 Pleasant Valley Villages Phase 2-13 898-Lot Subdivision

<b>Purpose/Outcomes</b>	Approval of this Board Order will create a new assessment area in Clackamas County Service District No. 5. This process is necessary and customary with new development to allow for the installation of adequate street lights.
<b>Dollar Amount and Fiscal Impact</b>	Operational costs for street lighting is paid by direct assessment against benefited property. As a result of the signing of this Board Order, Clackamas County Service District No. 5 will add the attached area to the assessment rolls for the District. This area falls under rate schedule W; the current rate for this schedule is \$245.00 per tax lot each year.
<b>Funding Source</b>	Assessments for street lighting will be levied against the properties within this area effective on the installation date furnished to the district by Portland General Electric Company as the official date that the properties within this area began receiving service.
<b>Duration</b>	N/A
<b>Previous Board Contact</b>	None
<b>Strategic Plan Alignment</b>	Promotes a safe, healthy and secure community through the enhanced nighttime visibility created with new street lighting.
<b>Contact Person</b>	Wendi Coryell, Service District Specialist - DTD Engineering 503-742-4657 (Phone)   wendicor@clackamas.us

**BACKGROUND:**

Street lighting is a condition of approval for new developments within Service District No. 5. As such, it has been included as a condition of approval for this development. Even though commercial/multi-family assessment areas may be comprised of only one to several tax lots, they frequently encompass significant stretches of road frontage in areas that will benefit significantly from street lighting. Notice of the time and place of the hearing was mailed by first class mail to the current addresses as listed by the Clackamas County Assessment office. The notice specifically noted that a public hearing was scheduled for January 18, 2018, to hear objections or file a remonstrance to approval of the new assessment area. Pursuant to statute, a minimum of 50% of the affected property owners must remonstrate to deny the formation of the new assessment area.

These documents have been reviewed and approved by Counsel.

**RECOMMENDATION:**

If remonstrances from more than 50% of the property owners in the proposed assessment area for street lighting *are not* received by the end of the public hearing, it is recommended that the Board of County Commissioners, acting in the capacity of governing board for Clackamas County Service District No. 5, approve this Order which will allow Clackamas County Service District No. 5 to proceed with the formation of a new assessment area for street lighting.

Respectfully submitted,

Wendi Coryell, Service District Specialist, CCSD#5

In the Matter of the Formation  
of an Assessment Area 54-16  
(Pleasant Valley Villages Phase 2-13  
898-Lot Subdivision) Within  
Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 1 of 2

This matter coming before the Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 5 "District" and it appearing to the "Board", that the properties within Assessment Area 54-16, Pleasant Valley Villages Phases 2-13 898-Lot Subdivision, 16821 SE Hagen Rd. have requested street light service, and that the formation of new assessment areas within the District is necessary for the installation of street lights; and

It further appearing to the Board that the method of financing construction, operation, and maintenance of service facilities is to be assessments against property benefited by street light facilities; and

It further appearing to the Board that rates for street lighting as established by Order No. 2017-75 and subsequent rate change Orders shall be applied to Assessment Area 54-16, Pleasant Valley Villages Phase 2-13 898-Lot Subdivision, with fractional year assessments pro-rated from the date of installation and in accordance with Ordinance Number 94-1368 pursuant to ORS 451.495 as follows:

Rate Schedule W: \$245.00 per tax lot each year, applied to residential properties; and

It further appearing to the Board that the lots in the rate schedules receive an equal benefit for street lighting services; and

It further appearing to the Board that the Department of Transportation and Development has given notice of public hearing as required by Order Number 94-1368 and ORS 451.495, and that said public hearing was duly held on the 18<sup>th</sup> day of January, 2018, and that the District did not receive written objections prior to the conclusion of the hearing from more than 50% of the property owners representing more than 50% of the affected property, now therefore:



In the Matter of the Formation  
of an Assessment Area 54-16  
(Pleasant Valley Villages Phase 2-13  
898-Lot Subdivision) Within  
Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 2 of 2

IT IS HEREBY ORDERED that properties in the Assessment Area as described below be subject to an assessment for street lighting:

Assessment Area 54-16 All lots in the Pleasant Valley Villages Phases 2-13 898-Lot Subdivision, development, 13E31B01300, 1700, 13E31C 00101, 2000, 5800, 6201, 6202, 23E06BA00100, 23E06BB00100 & 200; and

IT IS FURTHER ORDERED that an assessment roll be prepared by the Department of Transportation and Development for Clackamas County showing the amount of each yearly assessment, the property against which it has been assessed, the owner thereof, and such additional information as is required to keep a complete and permanent record of the assessment; and

IT IS FURTHER ORDERED that the Department of Transportation and Development proceed to construct the street lighting facilities in accordance with District rules and guidelines.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**  
**as the governing body of Clackamas County Service District No. 5**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary



M. BARBARA CARTMILL  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Board Order and Public Hearing Forming a Three Lot Assessment Area  
Within Clackamas County Service District No. 5, Assessment  
10-17 Three Lot Partition

<b>Purpose/Outcomes</b>	Approval of this Board Order will create a new assessment area in Clackamas County Service District No. 5. This process is necessary and customary with new development to allow for the installation of adequate street lights.
<b>Dollar Amount and Fiscal Impact</b>	Operational costs for street lighting is paid by direct assessment against benefited property. As a result of the signing of this Board Order, Clackamas County Service District No. 5 will add the attached area to the assessment rolls for the District. This area falls under rate schedule B; the current rate for this schedule is \$50.01 per tax lot each year.
<b>Funding Source</b>	Assessments for street lighting will be levied against the properties within this area effective on the installation date furnished to the district by Portland General Electric Company as the official date that the properties within this area began receiving service.
<b>Duration</b>	N/A
<b>Previous Board Contact</b>	None
<b>Strategic Plan Alignment</b>	Promotes a safe, healthy and secure community through the enhanced nighttime visibility created with new street lighting.
<b>Contact Person</b>	Wendi Coryell, Service District Specialist - DTD Engineering 503-742-4657 (Phone)   wendicor@clackamas.us

**BACKGROUND:**

Street lighting is a condition of approval for new developments within Service District No. 5. As such, it has been included as a condition of approval for this development. Even though commercial/multi-family assessment areas may be comprised of only one to several tax lots, they frequently encompass significant stretches of road frontage in areas that will benefit significantly from street lighting. Notice of the time and place of the hearing was mailed by first class mail to the current addresses as listed by the Clackamas County Assessment office. The notice specifically noted that a public hearing was scheduled for January 18, 2018, to hear objections or file a remonstrance to approval of the new assessment area. Pursuant to statute, a minimum of 50% of the affected property owners must remonstrate to deny the formation of the new assessment area.

These documents have been reviewed and approved by Counsel.

**RECOMMENDATION:**

If remonstrances from more than 50% of the property owners in the proposed assessment area for street lighting *are not* received by the end of the public hearing, it is recommended that the Board of County Commissioners, acting in the capacity of governing board for Clackamas County Service District No. 5, approve this Order which will allow Clackamas County Service District No. 5 to proceed with the formation of a new assessment area for street lighting.

Respectfully submitted,

Wendi Coryell, Service District Specialist, CCSD#5

In the Matter of the Formation  
of an Assessment Area 10-17  
(Three Lot Partition) Within  
Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 1 of 2

This matter coming before the Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 5 "District" and it appearing to the "Board", that the properties within Assessment Area 10-17, Three Lot Partition, 4926 SE Hill Rd. have requested street light service, and that the formation of new assessment areas within the District is necessary for the installation of street lights; and

It further appearing to the Board that the method of financing construction, operation, and maintenance of service facilities is to be assessments against property benefited by street light facilities; and

It further appearing to the Board that rates for street lighting as established by Order No. 2017-75 and subsequent rate change Orders shall be applied to Assessment Area 10-17, Three Lot Subdivision, with fractional year assessments pro-rated from the date of installation and in accordance with Ordinance Number 94-1368 pursuant to ORS 451.495 as follows:

Rate Schedule B: \$50.01 per tax lot each year, applied to residential properties; and

It further appearing to the Board that the lots in the rate schedules receive an equal benefit for street lighting services; and

It further appearing to the Board that the Department of Transportation and Development has given notice of public hearing as required by Order Number 94-1368 and ORS 451.495, and that said public hearing was duly held on the 18<sup>th</sup> day of January, 2018, and that the District did not receive written objections prior to the conclusion of the hearing from more than 50% of the property owners representing more than 50% of the affected property, now therefore:

In the Matter of the Formation  
of an Assessment Area 10-17  
(Three Lot Partition) Within  
Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 2 of 2

IT IS HEREBY ORDERED that properties in the Assessment Area as described below be subject to an assessment for street lighting:

Assessment Area 10-17 All lots in the Three Lot Partition, development, 22E07BA00301; and

IT IS FURTHER ORDERED that an assessment roll be prepared by the Department of Transportation and Development for Clackamas County showing the amount of each yearly assessment, the property against which it has been assessed, the owner thereof, and such additional information as is required to keep a complete and permanent record of the assessment; and

IT IS FURTHER ORDERED that the Department of Transportation and Development proceed to construct the street lighting facilities in accordance with District rules and guidelines.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**  
**as the governing body of Clackamas County Service District No. 5**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary



M. BARBARA CARTMILL  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Board Order and Public Hearing Forming a 7-Lot Assessment Area  
Within Clackamas County Service District No. 5, Assessment  
53-17 Berry Meadows 7-Lot Subdivision

<b>Purpose/Outcomes</b>	Approval of this Board Order will create a new assessment area in Clackamas County Service District No. 5. This process is necessary and customary with new development to allow for the installation of adequate street lights.
<b>Dollar Amount and Fiscal Impact</b>	Operational costs for street lighting is paid by direct assessment against benefited property. As a result of the signing of this Board Order, Clackamas County Service District No. 5 will add the attached area to the assessment rolls for the District. This area falls under rate schedule C; the current rate for this schedule is \$70.12 per tax lot each year.
<b>Funding Source</b>	Assessments for street lighting will be levied against the properties within this area effective on the installation date furnished to the district by Portland General Electric Company as the official date that the properties within this area began receiving service.
<b>Duration</b>	N/A
<b>Previous Board Contact</b>	None
<b>Strategic Plan Alignment</b>	Promotes a safe, healthy and secure community through the enhanced nighttime visibility created with new street lighting.
<b>Contact Person</b>	Wendi Coryell, Service District Specialist - DTD Engineering 503-742-4657 (Phone)   wendicor@clackamas.us

**BACKGROUND:**

Street lighting is a condition of approval for new developments within Service District No. 5. As such, it has been included as a condition of approval for this development. Even though commercial/multi-family assessment areas may be comprised of only one to several tax lots, they frequently encompass significant stretches of road frontage in areas that will benefit significantly from street lighting. Notice of the time and place of the hearing was mailed by first class mail to the current addresses as listed by the Clackamas County Assessment office. The notice specifically noted that a public hearing was scheduled for January 18, 2018, to hear objections or file a remonstrance to approval of the new assessment area. Pursuant to statute, a minimum of 50% of the affected property owners must remonstrate to deny the formation of the new assessment area.

These documents have been reviewed and approved by Counsel.

**RECOMMENDATION:**

If remonstrances from more than 50% of the property owners in the proposed assessment area for street lighting *are not* received by the end of the public hearing, it is recommended that the Board of County Commissioners, acting in the capacity of governing board for Clackamas County Service District No. 5, approve this Order which will allow Clackamas County Service District No. 5 to proceed with the formation of a new assessment area for street lighting.

Respectfully submitted,

Wendi Coryell, Service District Specialist, CCSD#5



In the Matter of the Formation  
of an Assessment Area 53-17  
(Berry Meadows 7-Lot Subdivision) Within  
Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 1 of 2

This matter coming before the Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 5 "District" and it appearing to the "Board", that the properties within Assessment Area 53-17, Berry Meadows 7-Lot Subdivision, 15314 SE Rupert Dr. have requested street light service, and that the formation of new assessment areas within the District is necessary for the installation of street lights; and

It further appearing to the Board that the method of financing construction, operation, and maintenance of service facilities is to be assessments against property benefited by street light facilities; and

It further appearing to the Board that rates for street lighting as established by Order No. 2017-75 and subsequent rate change Orders shall be applied to Assessment Area 53-17, Berry Meadows 7-Lot Subdivision, with fractional year assessments prorated from the date of installation and in accordance with Ordinance Number 94-1368 pursuant to ORS 451.495 as follows:

Rate Schedule C: \$70.12 per tax lot each year, applied to residential properties; and

It further appearing to the Board that the lots in the rate schedules receive an equal benefit for street lighting services; and

It further appearing to the Board that the Department of Transportation and Development has given notice of public hearing as required by Order Number 94-1368 and ORS 451.495, and that said public hearing was duly held on the 18<sup>th</sup> day of January, 2018, and that the District did not receive written objections prior to the conclusion of the hearing from more than 50% of the property owners representing more than 50% of the affected property, now therefore:

In the Matter of the Formation  
of an Assessment Area 53-17  
(Berry Meadows 7-Lot Subdivision) Within  
Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 2 of 2

IT IS HEREBY ORDERED that properties in the Assessment Area as described below be subject to an assessment for street lighting:

Assessment Area 53-17 All lots in the Berry Meadows 7-Lot Subdivision, development, 21E12BC04400; and

IT IS FURTHER ORDERED that an assessment roll be prepared by the Department of Transportation and Development for Clackamas County showing the amount of each yearly assessment, the property against which it has been assessed, the owner thereof, and such additional information as is required to keep a complete and permanent record of the assessment; and

IT IS FURTHER ORDERED that the Department of Transportation and Development proceed to construct the street lighting facilities in accordance with District rules and guidelines.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**  
**as the governing body of Clackamas County Service District No. 5**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary



M. BARBARA CARTMILL  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Board Order and Public Hearing Forming a One Lot Assessment Area  
Within Clackamas County Service District No. 5, Assessment  
20-16 Gethsemani Funeral Home Addition

<b>Purpose/Outcomes</b>	Approval of this Board Order will create a new assessment area in Clackamas County Service District No. 5. This process is necessary and customary with new development to allow for the installation of adequate street lights.
<b>Dollar Amount and Fiscal Impact</b>	Operational costs for street lighting is paid by direct assessment against benefited property. As a result of the signing of this Board Order, Clackamas County Service District No. 5 will add the attached area to the assessment rolls for the District. This area falls under rate schedule D; the current rate for this schedule is \$1.25 per frontage foot per tax lot each year.
<b>Funding Source</b>	Assessments for street lighting will be levied against the properties within this area effective on the installation date furnished to the district by Portland General Electric Company as the official date that the properties within this area began receiving service.
<b>Duration</b>	N/A
<b>Previous Board Contact</b>	None
<b>Strategic Plan Alignment</b>	Promotes a safe, healthy and secure community through the enhanced nighttime visibility created with new street lighting.
<b>Contact Person</b>	Wendi Coryell, Service District Specialist - DTD Engineering 503-742-4657 (Phone)   wendicor@clackamas.us

**BACKGROUND:**

Street lighting is a condition of approval for new developments within Service District No. 5. As such, it has been included as a condition of approval for this development. Even though commercial/multi-family assessment areas may be comprised of only one to several tax lots, they frequently encompass significant stretches of road frontage in areas that will benefit significantly from street lighting. Notice of the time and place of the hearing was mailed by first class mail to the current addresses as listed by the Clackamas County Assessment office. The notice specifically noted that a public hearing was scheduled for January 18, 2018, to hear objections or file a remonstrance to approval of the new assessment area. Pursuant to statute, a minimum of 50% of the affected property owners must remonstrate to deny the formation of the new assessment area.

These documents have been reviewed and approved by Counsel.

**RECOMMENDATION:**

If remonstrances from more than 50% of the property owners in the proposed assessment area for street lighting *are not* received by the end of the public hearing, it is recommended that the Board of County Commissioners, acting in the capacity of governing board for Clackamas County Service District No. 5, approve this Order which will allow Clackamas County Service District No. 5 to proceed with the formation of a new assessment area for street lighting.

Respectfully submitted,

Wendi Coryell, Service District Specialist, CCSD#5

In the Matter of the Formation  
of an Assessment Area 20-16  
(Gethsemani Funeral Home Addition)  
Within Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 1 of 2

This matter coming before the Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 5 "District" and it appearing to the "Board", that the properties within Assessment Area 20-16, Gethsemani Funeral Home Addition, 11666 SE Stevens Rd. have requested street light service, and that the formation of new assessment areas within the District is necessary for the installation of street lights; and

It further appearing to the Board that the method of financing construction, operation, and maintenance of service facilities is to be assessments against property benefited by street light facilities; and

It further appearing to the Board that rates for street lighting as established by Order No. 2017-75 and subsequent rate change Orders shall be applied to Assessment Area 20-16, Gethsemani Funeral Home Addition, with fractional year assessments prorated from the date of installation and in accordance with Ordinance Number 94-1368 pursuant to ORS 451.495 as follows:

Rate Schedule D: \$1.25 per frontage foot per tax lot each year, applied to commercial, industrial and multi-family properties; and

It further appearing to the Board that the lots in the rate schedules receive an equal benefit for street lighting services; and

It further appearing to the Board that the Department of Transportation and Development has given notice of public hearing as required by Order Number 94-1368 and ORS 451.495, and that said public hearing was duly held on the 18<sup>th</sup> day of January, 2018, and that the District did not receive written objections prior to the conclusion of the hearing from more than 50% of the property owners representing more than 50% of the affected property, now therefore:

In the Matter of the Formation  
of an Assessment Area 20-16  
(Gethsemani Funeral Home Addition)  
Within Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 2 of 2

IT IS HEREBY ORDERED that properties in the Assessment Area as described below be subject to an assessment for street lighting:

Assessment Area 20-16 All lots in the Gethsemani Funeral Home Addition, development, 12E33DA00100; and

IT IS FURTHER ORDERED that an assessment roll be prepared by the Department of Transportation and Development for Clackamas County showing the amount of each yearly assessment, the property against which it has been assessed, the owner thereof, and such additional information as is required to keep a complete and permanent record of the assessment; and

IT IS FURTHER ORDERED that the Department of Transportation and Development proceed to construct the street lighting facilities in accordance with District rules and guidelines.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**  
**as the governing body of Clackamas County Service District No. 5**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary



M. BARBARA CARTMILL  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Board Order and Public Hearing Forming a One Lot Assessment Area  
Within Clackamas County Service District No. 5, Assessment  
35-16 16,000 Sq. Ft. Light Industrial Building

<b>Purpose/Outcomes</b>	Approval of this Board Order will create a new assessment area in Clackamas County Service District No. 5. This process is necessary and customary with new development to allow for the installation of adequate street lights.
<b>Dollar Amount and Fiscal Impact</b>	Operational costs for street lighting is paid by direct assessment against benefited property. As a result of the signing of this Board Order, Clackamas County Service District No. 5 will add the attached area to the assessment rolls for the District. This area falls under rate schedule D; the current rate for this schedule is \$1.25 per frontage foot per tax lot each year.
<b>Funding Source</b>	Assessments for street lighting will be levied against the properties within this area effective on the installation date furnished to the district by Portland General Electric Company as the official date that the properties within this area began receiving service.
<b>Duration</b>	N/A
<b>Previous Board Contact</b>	None
<b>Strategic Plan Alignment</b>	Promotes a safe, healthy and secure community through the enhanced nighttime visibility created with new street lighting.
<b>Contact Person</b>	Wendi Coryell, Service District Specialist - DTD Engineering 503-742-4657 (Phone)   wendicor@clackamas.us

**BACKGROUND:**

Street lighting is a condition of approval for new developments within Service District No. 5. As such, it has been included as a condition of approval for this development. Even though commercial/multi-family assessment areas may be comprised of only one to several tax lots, they frequently encompass significant stretches of road frontage in areas that will benefit significantly from street lighting. Notice of the time and place of the hearing was mailed by first class mail to the current addresses as listed by the Clackamas County Assessment office. The notice specifically noted that a public hearing was scheduled for January 18, 2018, to hear objections or file a remonstrance to approval of the new assessment area. Pursuant to statute, a minimum of 50% of the affected property owners must remonstrate to deny the formation of the new assessment area.



These documents have been reviewed and approved by Counsel.

**RECOMMENDATION:**

If remonstrances from more than 50% of the property owners in the proposed assessment area for street lighting *are not* received by the end of the public hearing, it is recommended that the Board of County Commissioners, acting in the capacity of governing board for Clackamas County Service District No. 5, approve this Order which will allow Clackamas County Service District No. 5 to proceed with the formation of a new assessment area for street lighting.

Respectfully submitted,

Wendi Coryell, Service District Specialist, CCSD#5

In the Matter of the Formation  
of an Assessment Area 35-16  
(16,000 Sq. Ft. Light Industrial Building)  
Within Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 1 of 2

This matter coming before the Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 5 "District" and it appearing to the "Board", that the properties within Assessment Area 35-16, 16,000 Sq. Ft. Light Industrial Building, 14920 SE 82<sup>nd</sup> Dr., have requested street light service, and that the formation of new assessment areas within the District is necessary for the installation of street lights; and

It further appearing to the Board that the method of financing construction, operation, and maintenance of service facilities is to be assessments against property benefited by street light facilities; and

It further appearing to the Board that rates for street lighting as established by Order No. 2017-75 and subsequent rate change Orders shall be applied to Assessment Area 35-16, 16,000 Sq. Ft. Light Industrial Building, with fractional year assessments pro-rated from the date of installation and in accordance with Ordinance Number 94-1368 pursuant to ORS 451.495 as follows:

Rate Schedule D: \$1.25 per frontage foot per tax lot each year, applied to commercial, industrial and multi-family properties; and

It further appearing to the Board that the lots in the rate schedules receive an equal benefit for street lighting services; and

It further appearing to the Board that the Department of Transportation and Development has given notice of public hearing as required by Order Number 94-1368 and ORS 451.495, and that said public hearing was duly held on the 18<sup>th</sup> day of January 18, 2018, and that the District did not receive written objections prior to the conclusion of the hearing from more than 50% of the property owners representing more than 50% of the affected property, now therefore:

In the Matter of the Formation  
of an Assessment Area 35-16  
(16,000 Sq. Ft. Light Industrial Building)  
Within Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 2 of 2

IT IS HEREBY ORDERED that properties in the Assessment Area as described below be subject to an assessment for street lighting:

Assessment Area 35-16 All lots in the 16,000 Sq. Ft. Light Industrial Building, development, 22E09AB00400; and

IT IS FURTHER ORDERED that an assessment roll be prepared by the Department of Transportation and Development for Clackamas County showing the amount of each yearly assessment, the property against which it has been assessed, the owner thereof, and such additional information as is required to keep a complete and permanent record of the assessment; and

IT IS FURTHER ORDERED that the Department of Transportation and Development proceed to construct the street lighting facilities in accordance with District rules and guidelines.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**  
**as the governing body of Clackamas County Service District No. 5**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary



M. BARBARA CARTMILL  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Board Order and Public Hearing Forming a One Lot Assessment Area  
Within Clackamas County Service District No. 5, Assessment  
18-17 Clackamas Fire District New Building

<b>Purpose/Outcomes</b>	Approval of this Board Order will create a new assessment area in Clackamas County Service District No. 5. This process is necessary and customary with new development to allow for the installation of adequate street lights.
<b>Dollar Amount and Fiscal Impact</b>	Operational costs for street lighting is paid by direct assessment against benefited property. As a result of the signing of this Board Order, Clackamas County Service District No. 5 will add the attached area to the assessment rolls for the District. This area falls under rate schedule D; the current rate for this schedule is \$1.25 per frontage foot per tax lot each year.
<b>Funding Source</b>	Assessments for street lighting will be levied against the properties within this area effective on the installation date furnished to the district by Portland General Electric Company as the official date that the properties within this area began receiving service.
<b>Duration</b>	N/A
<b>Previous Board Contact</b>	None
<b>Strategic Plan Alignment</b>	Promotes a safe, healthy and secure community through the enhanced nighttime visibility created with new street lighting.
<b>Contact Person</b>	Wendi Coryell, Service District Specialist - DTD Engineering 503-742-4657 (Phone)   wendicor@clackamas.us

**BACKGROUND:**

Street lighting is a condition of approval for new developments within Service District No. 5. As such, it has been included as a condition of approval for this development. Even though commercial/multi-family assessment areas may be comprised of only one to several tax lots, they frequently encompass significant stretches of road frontage in areas that will benefit significantly from street lighting. Notice of the time and place of the hearing was mailed by first class mail to the current addresses as listed by the Clackamas County Assessment office. The notice specifically noted that a public hearing was scheduled for January 18, 2018, to hear objections or file a remonstrance to approval of the new assessment area. Pursuant to statute, a minimum of 50% of the affected property owners must remonstrate to deny the formation of the new assessment area.

These documents have been reviewed and approved by Counsel.

**RECOMMENDATION:**

If remonstrances from more than 50% of the property owners in the proposed assessment area for street lighting *are not* received by the end of the public hearing, it is recommended that the Board of County Commissioners, acting in the capacity of governing board for Clackamas County Service District No. 5, approve this Order which will allow Clackamas County Service District No. 5 to proceed with the formation of a new assessment area for street lighting.

Respectfully submitted,

Wendi Coryell, Service District Specialist, CCSD#5

In the Matter of the Formation  
of an Assessment Area 18-17  
(Clackamas Fire District New Building)  
Within Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 1 of 2

This matter coming before the Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 5 "District" and it appearing to the "Board", that the properties within Assessment Area 18-17, Clackamas Fire District New Building, 15800 SE 130<sup>th</sup> Ave. have requested street light service, and that the formation of new assessment areas within the District is necessary for the installation of street lights; and

It further appearing to the Board that the method of financing construction, operation, and maintenance of service facilities is to be assessments against property benefited by street light facilities; and

It further appearing to the Board that rates for street lighting as established by Order No. 2017-75 and subsequent rate change Orders shall be applied to Assessment Area 18-17, Clackamas Fire District New Building, with fractional year assessments prorated from the date of installation and in accordance with Ordinance Number 94-1368 pursuant to ORS 451.495 as follows:

Rate Schedule D: \$1.25 per frontage foot per tax lot each year, applied to commercial, industrial and multi-family properties; and

It further appearing to the Board that the lots in the rate schedules receive an equal benefit for street lighting services; and

It further appearing to the Board that the Department of Transportation and Development has given notice of public hearing as required by Order Number 94-1368 and ORS 451.495, and that said public hearing was duly held on the 18<sup>th</sup> day of January, 2018, and that the District did not receive written objections prior to the conclusion of the hearing from more than 50% of the property owners representing more than 50% of the affected property, now therefore:

In the Matter of the Formation  
of an Assessment Area 18-17  
(Clackamas Fire District New Building)  
Within Clackamas County Service District  
No. 5, Clackamas County, Oregon

ORDER NO.  
Page 2 of 2

IT IS HEREBY ORDERED that properties in the Assessment Area as described below be subject to an assessment for street lighting:

Assessment Area 18-17 All lots in the Clackamas Fire District New Building, development, 22E11DB01300; and

IT IS FURTHER ORDERED that an assessment roll be prepared by the Department of Transportation and Development for Clackamas County showing the amount of each yearly assessment, the property against which it has been assessed, the owner thereof, and such additional information as is required to keep a complete and permanent record of the assessment; and

IT IS FURTHER ORDERED that the Department of Transportation and Development proceed to construct the street lighting facilities in accordance with District rules and guidelines.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**  
**as the governing body of Clackamas County Service District No. 5**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary



January 18, 2018

Board of County Commissioners  
Of Clackamas County as the  
Governing Body of the Library  
District of Clackamas County

Members of the Board:

Amendment of Library District of Clackamas County Master Order to Allow  
Increased Use of District Funds in Support of Library Facilities and Related  
Capital Expenditures

**Stephen L. Madkour**  
County Counsel

**Kathleen Rastetter**  
**Chris Storey**  
**Scott C. Ciecko**  
**Alexander Gordon**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Christina Thacker**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
Assistants

<b>Purpose/Outcomes</b>	Modification of Master Order to allow increased use of District funds in support of library facilities and related capital expenditures.
<b>Dollar Amount and Fiscal Impact</b>	N/A
<b>Funding Source</b>	N/A
<b>Duration</b>	Permanent until changed by BCC
<b>Previous Board Action</b>	Execution of Gladstone Settlement Agreement contemplating action jointly signed October 16, 2017. Policy session December 5, 2017.
<b>Strategic Plan Alignment</b>	Build public trust through good government – action is consistent with prior commitments of the BCC with respect to the Gladstone settlement agreement.
<b>Contact Person</b>	Chris Storey, Assistant County Counsel
<b>Contract No.</b>	N/A

This matter comes before the Board of County Commissioners acting as the governing body the Library District of Clackamas County (the "Library District").

**BACKGROUND:**

Clackamas County (the "County") used to distribute general fund monies directly to cities operating libraries in Clackamas County ("Library Cities") to support library services for all residents of the County. It is my understanding that these dollars were unrestricted and could be used for any purpose. This approach was challenged by the Great Recession in 2008, and the County was considering ending this distribution and closing the three unincorporated libraries (Hoodland, Oak Lodge, and Sunnyside) operated directly by the County.

In lieu of closing libraries and reducing funding, the County proposed formation of the Library District. This county service district, formed under Oregon Revised Statutes ("ORS") Chapter 451 would levy a new, direct permanent rate, which would then be distributed to the Library Cities. A feasibility study was undertaken, a rate established, and a strategy of the Library District being a funding-only vehicle, rather than an operational control entity, was agreed upon. Pursuant to ORS 198's boundary requirements, each city within Clackamas County had to opt



into the Library District to be included in the proposed boundaries prior to the vote on formation by citizens. At the time of formation, all cities except Damascus, Johnson City, and Tualatin agreed to be part of the then-proposed Library District. Subsequent annexations by Damascus and Tualatin have created a nearly county-wide district, with the Library District now covering all of Clackamas County excepting only the ~44 acres contained within the City of Johnson City.

In forming the Library District, the County faced a boundary issue because a county service district providing library services already existed, covering the area coterminous with the Estacada School District. The Estacada Area County Service District for Library Services ("Estacada District") was formed in 2004 and, after voter approval from the citizens within its boundaries, issued general obligation bonds in 2005 to support construction of library improvements for the City of Estacada's Library. Applicable state law requires that two districts not exist over the same territory providing the same service. To avoid the necessity of removing the Estacada area from the county-wide Library District, during the formation process the Board determined that the Estacada District was used for capital-only purposes and the Library District would be used for operating-only purposes, and therefore there was no conflict sufficient to require the exclusion of the Estacada school district area. This was reflected in the ultimate formation documents of the Library District after voters approved its' formation in November 2008.

As part of the Library District formation effort, the County also promised to contribute One Million Dollars (\$1,000,000.00) to each library in the County to support facility improvement from the County general fund. The monies allocated to Estacada Library were used to pay off the general obligation bonds early without additional taxes on the citizens within the Estacada District. Once the general obligation bonds were retired in 2015, the Estacada District was dissolved in 2016 and no longer exists.

After formation of the Library District, an intergovernmental agreement between the Library District, the County, and the Library Cities was entered into to govern the distribution of funds to those libraries and provide assurances for service to unincorporated residents (the "Master IGA"). With more granularity than the Master Order, the Master IGA includes the restrictions on the use of funds from the Library District to be for operations only. Specifically, Section 2.1 states that the funds from the Library District may only be used to "...provide public library service, and shall expend the entire library revenue paid under this Agreement in accordance with the purpose for which it was provided by implementing a plan to achieve the Service Standards." The service standards are generally defined around the provision of "Threshold" standards as defined by the Oregon Library Association, which are attached to the Master IGA as aspirational goals for each library to pursue in the manner best suited for their community.

Separate intergovernmental agreements were entered into for the capital contributions from the County to individual libraries. Once such agreement was between the County and the City of Gladstone ("Gladstone"), pursuant to which, in addition to the \$1 million contribution for the Gladstone library, called for the combination of the Gladstone library with the Oak Lodge library, and allocated an additional \$1.5 million towards that end. After several years and different attempts at that issue without success, the County terminated the agreement with Gladstone with respect to that matter.

Gladstone sued on the basis of a breach of contract, and the County counterclaimed on similar and other grounds. After extensive settlement discussions, on October 16, 2017, County and the City of Gladstone entered into a settlement agreement (the "Settlement") regarding a lawsuit filed by Gladstone relating to funding for the Gladstone and Oak Lodge libraries. As part of the

Settlement, the Board of County Commissioners agreed to undertake good faith efforts to implement certain changes to support a jointly operated two library service approach for the Oak Lodge and Gladstone service areas, including the construction of two new libraries to serve those areas in partial reliance on revenues from the Library District to pay for those improvements (the "Plan").

To implement the Plan, the Board is required to consider two separate actions. Chronologically, the first is a public hearing and vote by the Board as the governing body of the Library District on adoption of an amendment to the current District formation board order adopted November 18, 2008, (the "Current Master Order") to clarify that revenues of the District may appropriately be expended in support of library capital needs, as well as library operational needs. With respect to the amendment of the Current Master Order, the Settlement states that:

**2.3. County Obligations:**

- 2.3.1. Amendments. County agrees to effectuate and support any amendments to the Master Order, Capital IGA and the Master IGA necessary to accomplish Concept Option A.

That is the matter before the Board, as the governing body of the Library District, today. The related timeline for this action is a requirement to take all necessary steps such that if there is a vote necessary on the amendment of the Current Master Order, it will take place at the May 2018 election.

For the purposes of completeness it is important to note that the second item necessary to implement the Plan is advancement of an additional amendment to the Master IGA (it has already been previously amended to annex a portion of Tualatin, to annex the then-City of Damascus, and to add Happy Valley as a library city once it assumed responsibility for the Sunnyside Library). As noted above, the restriction on the use of funds is part of the Master IGA. The Master IGA also has language requiring Gladstone to assume responsibility for the Oak Lodge service area, and the County to exit the direct library provision business. None of these terms are consistent with the Plan, and would need to be addressed.

However, the exact nature of the amendments is dependent upon a vote within Gladstone, currently anticipated to occur in May 2018. Staff is proposing to await the results of that election before formally initiating the Master IGA amendment process. As required in the Master IGA, amendments will be first discussed with the Library District Advisory Committee ("LDAC") and then more broadly, likely with library boards, citizen groups, city staff, and ultimately city councils in whatever manner the Board may direct. To amend the Master IGA, the consent of the Library District and two-thirds of the Library Cities is required. Given the amount of time a broader conversation will require, and city council schedules and debates, the current target for adoption of the related Master IGA amendments is late fall of 2018.

*Master Order Amendment to Allow Use of Library District Funds for Capital Purposes:*

ORS 451.485 lays out the components of a county service district master order. The relevant portion of ORS 451.485 states:

Before proceeding to construct or provide any service facilities authorized by this chapter, the governing body of the district shall make an order:

- (1) Determining the service facilities to be constructed, maintained and operated and the part of the work to be undertaken immediately.

- (2) Determining the manner of financing the construction, maintenance and operation of the service facilities.
- (3) Determining the method by which the district shall bear the share of the cost of construction of the service facilities that is to be apportioned to the district.
- (4) Where it appears that any service facilities to be constructed will provide service to areas outside the district at some future date, determining the equitable and fair share of the cost of construction of such facilities that should be borne by such areas, which share shall be borne by the revolving fund established under ORS 451.540, by funds obtained by the county under ORS 280.055 or by any other method of financing described by ORS 451.490 until such areas are served by the facilities.
- (5) Where the service facilities of the district are to be integrated into other service facilities constructed or being constructed by another district or by other public bodies as defined in ORS 174.109, determining the fair and equitable amount the district should assume as its share of the construction of such other service facilities, which amount shall be paid to the other district or public body upon terms and conditions to which the governing body of the district has agreed.
- (6) In the case of sewage works, where trunk or interceptor sewers, treatment plants and similar facilities are to be charged to all property within the district while lateral sewers, street mains and similar facilities are to be charged only to property to be served immediately by the system, determining the fair and equitable share of the total cost to be charged to areas within the district.
- (7) If any of the cost of the work is to be assessed against benefited property, describing portions of the district, if any, within which service facilities will not be financed by assessment.

Master Orders can range from very complex to quite simple. At the time of formation of the Library District, since it was being deemed an operation-only funding mechanism, the Current Master Order did not have to address many of the issues identified in the statute and is on the "very simple" end of the range of approaches for such a document. The Current Master Order language simply states that the purpose of the Library District is:

1. To provide a dedicated, stable funding source for the support of library services.
2. To raise revenue to be distributed to the existing city and county-operated libraries in the system. Formation of the District should provide sufficient funding to raise the service levels at all facilities to the most basic ("Threshold") level recommended by the Oregon Library Association.

The Plan outlined in the Settlement, therein described as "Concept Option A," anticipates using the revenue allocated to the Oak Lodge and Gladstone library service areas from the Library District as debt service in support of borrowings for construction. These funds would allow for construction of two new libraries in Gladstone and Oak Lodge to serve those residents without requiring a tax increase or other source of revenue. The change to the Current Master Order is a necessary but not sufficient action to implement the Plan.

A draft amendment to the Master Order to effectuate the use of funds in such a manner, consistent with applicable agreements, was discussed by the Board in early December. The

draft attached as Proposal 1 is based on that draft, after modification to incorporate some feedback from the Board, LDAC, the library directors and County staff.

As noted during the Board issues discussion on January 9<sup>th</sup>, the Board has received some public comment generally opposed to amending the Master Order, primarily rooted in the concern that the draft revised master order is too permissive to cities in the use of Library District revenues and the revenues should remain restricted for use for library operations only. In response to that concern, the Board briefly discussed imposition on the Library Cities of certain restrictions.

Attached as Proposal 2 is a draft amendment to the Master Order as crafted by Commissioner Savas as his draft concept and proposal to the entire Board for consideration that would provide greater restrictions on the use of Library District revenues than Proposal 1, including the prohibition of issuing debt in reliance on Library District revenues. This would be adopted in lieu of Proposal 1.

The Board has discretionary authority as the governing body of the Library District to adopt either proposal or a modification thereof. Staff makes no recommendation with respect to which Proposal to adopt, only that a proposal is adopted to amend the Current Master Order.

**RECOMMENDATION:**

Staff respectfully recommends that the Board, as the governing body of the Library District, adopt an amendment of the Current Master Order consistent with the Settlement agreement with Gladstone.

Respectfully submitted,



Chris Storey  
Assistant County Counsel

Attachments:

Proposal 1 - Staff

Proposal 2 – Comm. Savas

In the Matter of the Amended & Restated  
Master Order of the Library  
District of Clackamas County

ORDER NO. \_\_\_\_\_  
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**WHEREAS**, this matter coming before the Board at this time, and it appearing that Order No. 2008-189 dated December 3, 2008 (“Original Order”), both formed a county service district under Oregon Revised Statutes (“ORS”) Chapter 451 for library services known as the “Library District of Clackamas County” (the “District”) and established a defined purpose for it on the related Exhibit C pursuant to ORS 451.485; and

**WHEREAS**, the Board of County Commissioners, acting as the governing body of the District (the “Board”), may amend the purpose of the district pursuant to ORS 451.485 and 451.487; and

**WHEREAS**, the Board desires to amend and restate the order establishing the purpose of the District required by ORS 451.485 to clarify and expand the scope and nature of allowable expenditures of District revenue for library purposes; and

**WHEREAS**, to effectuate the same the Board wishes to amend and restate Exhibit C of the Original Order;

**NOW, THEREFORE, IT IS HEREBY ORDERED** with respect to the Library District of Clackamas County pursuant to ORS 451.485 that Exhibit C of the original order stating purpose and allowed activities of the district is amended and restated in its entirety to read:

1. To provide a dedicated, stable funding source for the support of library services.
2. To raise revenue to be distributed to the existing city and county-operated libraries in the system. Formation of the District was intended to provide sufficient funding to raise the service levels at all facilities to the most basic level recommended by the Oregon Library Association.
3. Revenues of the District may be expended solely for any library service or purpose, including, but not limited to, operations, equipment, inventory, staffing, studies, consultants, reasonable overhead charges consistent with the practice of the applicable jurisdiction, allocated expenses, capital expenditures, and reserves to fund any of the above.
4. Distributees of the District, including but not limited to Clackamas County or cities partially or wholly within Clackamas County that provide direct library services (each, a “Recipient”), may use District revenues to construct and own library facilities, assets, and buildings.



In the Matter of the Amended & Restated  
Master Order of the Library  
District of Clackamas County

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5. Revenue-based bonds or obligations in support of library buildings and facilities may be issued by any Recipient in reliance on the revenues of the District after due approval as required by law.
6. The District may not issue general obligation bonds. The Board specifically finds that it is permissible and not the same purposes of the District under this Order, ORS 198.720 or ORS 451 to create a library services county service district with boundaries less than the whole of the District for the sole and exclusive purpose of issuing voter-approved general obligation bonds in support of library capital facility needs.
7. The proportions of cost sharing allocated between District revenues and city or other revenues shall be determined pursuant to an agreement between the District and entities controlling or managing the other participating funding sources.
8. Any facilities or assets purchased with District revenues shall be operated and/or managed by the Recipient designated by agreement. Such facilities or assets shall be made available to users from other jurisdictions pursuant to intergovernmental or other agreements as part of the larger library system of Clackamas County.
9. Use of District funds for capital expenditures may only be allowed upon a finding by the governing body of the District that such expenditures shall not occur at the detriment of the provision of library services and the sustainability of library operations. The agreement referred to by Section 7 of this Order shall provide the criteria upon which such finding shall be based.

**DATED** this 18<sup>th</sup> day of January, 2018.

**BOARD OF COUNTY COMMISSIONERS  
AS THE GOVERNING BODY OF THE  
LIBRARY DISTRICT OF CLACKAMAS COUNTY**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

In the Matter of the Amended & Restated  
Master Order of the Library  
District of Clackamas County

ORDER NO. \_\_\_\_\_  
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**WHEREAS**, this matter coming before the Board at this time, and it appearing that Order No. 2008-189 dated December 3, 2008 ("Original Order"), both formed a county service district under Oregon Revised Statutes ("ORS") Chapter 451 for library services known as the "Library District of Clackamas County" (the "District") and established a defined purpose for it on the related Exhibit C pursuant to ORS 451.485; and

**WHEREAS**, the Board of County Commissioners, acting as the governing body of the District (the "Board"), may amend the purpose of the district pursuant to ORS 451.485 and 451.487; and

**WHEREAS**, the Board desires to amend and restate the order establishing the purpose of the District required by ORS 451.485 to clarify and expand the scope and nature of allowable expenditures of District revenue for library purposes; and

**WHEREAS**, to effectuate the same the Board wishes to amend and restate Exhibit C of the Original Order;

**NOW, THEREFORE, IT IS HEREBY ORDERED** with respect to the Library District of Clackamas County pursuant to ORS 451.485 that Exhibit C of the original order stating purpose and allowed activities of the district is amended and restated in its entirety to read:

1. District funds are not allowed for capital construction or expansion consistent with the primary purpose of providing a dedicated, stable funding source for the support of library services except as specifically provided below.
2. To raise revenue to be distributed to the existing city and county-operated libraries in the system. Formation of the District was intended to provide sufficient funding to raise the service levels at all facilities to the most basic level recommended by the Oregon Library Association (the "Service Level").
3. In the circumstance that a recipient of District funds has "excess reserves" (as defined below) and demonstrated a history of stable funding while meeting the appropriate Service Level as defined by the governing body of that recipient, and established operating reserves, any excess reserves may then be used for capital construction of facilities solely for library purposes under specific criteria to be defined in an agreement between the District and recipients of District funds. The principles and the specific criteria shall serve to ensure that District funds are not relied upon for capital expenditures except as specifically provided below and that Service Levels will never be compromised to allow excess reserves to accrue.

In the Matter of the Amended & Restated  
Master Order of the Library  
District of Clackamas County

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4. The specific authorization of use of excess revenues by recipients of District funds in paragraph #3 above shall be the only manner in which District revenues may be expended for capital purposes. Any bonding or debt instruments shall be the sole responsibility of a library city or county library that has met the definition of excess reserves and other key threshold requirements to allow those limited excess reserves to be expended on capital construction and or expansion of library facilities and other related criteria as may be set forth in an agreement between the District and recipients of District funds.
5. For the purposes of this order, the term "excess reserves" are herein defined as those monies held by a recipient of District funds as beginning fund balance allocated to the provision of library services, after the criteria identified below has been met:
  - a. A library city or county library may be eligible to declare "excess reserves" after demonstrating "x" years of operating with "x" % of operating reserves as identified in their prior budgets, and;
  - b. the library city or county library has demonstrated "X" years of meeting their minimum threshold level of service, and;
  - c. the library city or county library agrees to maintain "x" % of operating reserves and their minimum threshold level of service and provides a budget that identifies eligible "excess revenues", and;
  - d. the city or county shall not encumber any District funds, or their own dedicated operations and maintenance funds for capital purposes, and;
  - e. the city or county shall not encumber any District funds, or their own dedicated operations and maintenance funds for any debt, and;
  - f. the city or county shall provide a copy of their library operations budget to the Library District Advisory Committee for review by August of every year, and;
  - g. the city or county, on behalf their library shall enter into an agreement with the Library District the terms and conditions of the prescribed "excess reserves" for said purposes.



In the Matter of the Amended & Restated  
Master Order of the Library  
District of Clackamas County

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6. The District may not issue general obligation bonds. The Board specifically finds that it is permissible and not the same purposes of the District under this Order, ORS 198.720 or ORS 451 to create a library services county service district with boundaries less than the whole of the District for the sole and exclusive purpose of issuing voter-approved general obligation bonds in support of library capital facility needs.

**DATED** this 18<sup>th</sup> day of January, 2018.

BOARD OF COUNTY COMMISSIONERS  
AS THE GOVERNING BODY OF THE  
LIBRARY DISTRICT OF CLACKAMAS COUNTY

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between  
the Housing and Community Development Division and the Colton Water District  
for the Virgil Road Waterline Project in Colton

<b>Purpose/Outcomes</b>	The Agreement will allow for the Housing and Community Development Division to work with the Colton Water District and their hired engineer to complete the design and construction of approximately 1,200 feet of water line improvements along Virgil Road in Colton.
<b>Dollar Amount and Fiscal Impact</b>	\$125,000 of Community Development Block Grant funds and approximately \$90,000 of Colton Water District funds.
<b>Funding Source</b>	U.S. Department of Housing and Urban Development No County General Funds are involved.
<b>Duration</b>	Effective January through 2028 (ten years after project completion).
<b>Previous Board Action</b>	2017 Action Plan and the 3-Year Funding Recommendations were approved by the BCC on May 11, 2017 - agenda item 051117-A1.
<b>Strategic Plan Alignment</b>	1. Build a strong infrastructure 2. Ensure safe, healthy and secure communities
<b>Contact Person</b>	Mark Sirois, Housing and Community Development - (503) 655-5664
<b>Contract No.</b>	H3S 8643

**BACKGROUND:**

The Housing and Community Development Division of the Health, Housing and Human Services Department requests the approval of this Intergovernmental Agreement with the Colton Water District for the Virgil Road Waterline Improvements Project. The Agreement determines the roles of the Colton Water District and the County regarding contract administration, project management as well as the duties of the hired engineer during project construction. The Agreement was reviewed by County Counsel on October 26, 2017.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services Department

**INTERGOVERNMENTAL AGREEMENT**  
**BETWEEN**  
**CLACKAMAS COUNTY DEPARTMENT OF**  
**HEALTH, HOUSING AND HUMAN RESOURCES,**  
**HOUSING AND COMMUNITY DEVELOPMENT DIVISION**  
**AND**  
**THE COLTON WATER DISTRICT**

**I. Purpose**

- A. This Intergovernmental Agreement (this "Agreement") is entered into between Clackamas County, acting by and through its Housing and Community Development Division ("COUNTY") and the Colton Water District ("COLTON WATER") for the cooperation of units of local government under the authority of ORS 190.010.
- B. This Agreement provides for the **Virgil Waterline Improvements** project which includes design and construction of a new fire hydrant and replacement of approximately 1,200 feet of waterlines on Virgil Road in Colton. These improvements are herein referred to as the "PROJECT."
- C. The COUNTY has determined that the PROJECT is eligible for Community Development Block Grant ("CDBG") funds as a Low-Mod Area Benefit Activity. The service area for the PROJECT is defined as U.S. Census Tract 241.00 Block Group 3 and shown on the map included in Attachment A, attached hereto and incorporated by reference.

**II. Scope of Responsibilities**

- A. Under this Agreement, the responsibilities of the COLTON WATER shall be as follows:
  - 1. COLTON WATER shall provide all necessary supervisory and administrative support to assist the COUNTY with the completion of the PROJECT.
  - 2. COLTON WATER shall obtain any easements or approvals necessary to allow access onto private property through the course of the PROJECT. Acquisition of any easement shall be obtained pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended ("URA"). If assistance is needed for URA

guidance, the COUNTY will make available to COLTON WATER a Right-Of-Way Acquisition Specialist.

3. COLTON WATER shall provide engineering services internally or externally for the design and construction oversight of the PROJECT. Such services shall be provided at no cost to the COUNTY. COLTON WATER shall assume responsibility for ensuring the following:
  - a. COLTON WATER shall provide a registered professional Engineer (herein after referred to as Engineer) to prepare all plans and specifications necessary to publicly bid the PROJECT for award to a construction contractor (herein after referred to as Contractor) and provide construction oversight including staking and surveying of the PROJECT. If COLTON WATER uses external engineering services by contracting with an engineering firm, the engaged engineering firm may donate staff time as well as donate materials for the PROJECT.
  - b. COLTON WATER shall require the Engineer to maintain comprehensive general (including contractual liability) and automobile liability insurance for personal injury and property damage 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, in any way related to Engineer's or any of Engineer's subcontractor's performance of this Agreement under the following provisions listed in the matrix below.

Minimum Insurance Requirements for Contracts with Government, Architect or Engineer:

Reason for Contract:	Commercial General Liability:	Automobile Liability Commercial:	Professional Liability:
Consulting Services/ Professional	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000
Design Services	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000
Engineers	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000
Professional Services	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000

- c. COLTON WATER shall require the Engineer to use good faith in order to maintain active coverage for not less than three (3) years following completion of the PROJECT. COLTON WATER shall require the Engineer to include the COUNTY as an additional insured and refer to and support the Engineer's obligation to hold harmless the COUNTY, its officers, commissioners and employees. Such insurance shall provide thirty (30) days written notice to the COUNTY in the event of cancellation, non-renewal, or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. The insurance company will provide written notice to the COUNTY within thirty (30) days after any reduction on the general annual aggregate limit.
- d. If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the Engineer's or COLTON WATER's insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided its retroactive date is on or before the effective date of the contract.
- e. COLTON WATER shall require the Engineer to furnish the COUNTY evidence of professional liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence / \$2,000,000 general annual aggregate for malpractice or errors and omissions coverage 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 contract. The COUNTY, at its option, may require a complete copy of the above policy.
- f. The insurance, other than the professional liability insurance, shall include the COUNTY as an expressly scheduled additional insured. Proof of insurance must include a copy of the endorsement showing the COUNTY as a scheduled insured. Such insurance shall provide sixty (60) days written notice to the COUNTY in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. This policy(s) shall be primary insurance with respect

to the COUNTY. Any insurance or self-insurance maintained by the COUNTY shall be excess and shall not contribute to it.

- g. COLTON WATER shall ensure that the Engineer's responsibilities include, but not be limited to, the following:
    - (i) During construction, the Engineer shall endeavor to guard the COUNTY against apparent defects and deficiencies in the permanent work constructed by the general contractor.
    - (ii) The Engineer shall submit all reports and recommendations concerning construction to the COUNTY for their approval. The COUNTY agrees that no decisions affecting construction shall be made without COLTON WATER approval.
    - (iii) In the event modifications to the construction contract, which result in an increase in the contract amount, are made without the prior approval of the COUNTY, COLTON WATER shall be solely responsible for these modifications.
    - (iv) The Engineer shall notify the County Surveyor of the PROJECT and provide COLTON WATER, design Engineer, surveyor and contractor contacts.
    - (v) The Engineer shall file a "Pre-Construction Record of Survey" with the County Surveyor prior to the PROJECT final award of the construction contract in order to identify and preserve the locations of survey monuments that may be disturbed or removed during the construction as described in ORS 209.150.
    - (vi) The Engineer shall file a "Post-Construction Record of Survey" with the County Surveyor after the construction PROJECT is completed. The Engineer is responsible to replace any property corner monuments that were disturbed or removed during construction as described in ORS 209.150.
4. COLTON WATER shall operate and maintain the improvements for public purposes for their useful life subject to the limitations on the expenditure of funds by COLTON WATER as provided by Oregon law.
  5. COLTON WATER shall complete and submit a Performance Measures Report following completion of the PROJECT, attached as ATTACHMENT A and incorporated by reference.



6. COLTON WATER shall complete and submit a Matching Funds Report following completion of the PROJECT, attached as ATTACHMENT B and incorporated by reference.
7. Upon completion of the PROJECT, COLTON WATER:
  - a. Agrees to accept the improvements and take ownership, including responsibility for any claims against the PROJECT from that point forward; and
  - b. Agrees to become the successor of the PROJECT construction contract and assume all of the corresponding rights and responsibilities.

B. Under this Agreement, the responsibilities of the COUNTY will be as follows:

1. The COUNTY will appropriately bid and contract for construction of the PROJECT and with COLTON WATER's approval, which will not be unreasonably withheld, will approve changes, modifications, or amendments as necessary to serve the public interest.
2. In such contracts, the COUNTY will assume the rights and responsibilities of the owner of the PROJECT. Moreover, the COUNTY will assign a Project Coordinator to perform the following duties:
  - a. Provide PROJECT Manual Documents and Bid the PROJECT;
  - b. Award the PROJECT;
  - c. Hire the lowest responsive/ responsible General Contractor;
  - d. Issue the Notice to Proceed to General Contractor;
  - e. Process Pay Requests for CDBG funds and COLTON WATER funds;
  - f. Conduct on-site interviews of workers for Federal Prevailing Wage Rates for Davis-Bacon as well as review submitted Payroll Forms for the Project;
  - g. Collect all HUD (defined below) required PROJECT Close-Out Documents;
  - h. A Release Retainage final payment to the general contractor will occur only after hired Engineer and COLTON WATER approve and sign-off on PROJECT after the scope of work has been completed; and
  - i. Relinquish ownership of PROJECT to COLTON WATER upon completion.
3. The COUNTY agrees to provide and administer available Federal Community Development Block Grant ("CDBG") funds (CFDA 14.218) granted by the U.S. Department of Housing and Urban Development ("HUD") to finance the PROJECT.

4. The COUNTY shall conduct necessary environmental reviews described in 570.604 of the CDBG regulations for compliance with requirements of the CDBG program prior to the start of construction.
  5. The COUNTY shall provide reasonable and necessary staff for administration of the PROJECT.
- C. The COUNTY and COLTON WATER agree to jointly review and approve all design, material selection, and contract documents for the PROJECT.
- D. The COUNTY agrees that no decisions affecting construction shall be made without COLTON WATER approval. In the event modifications to the construction contract, which result in an increase in the contract amount, are made without the prior approval of COLTON WATER, the COUNTY shall be solely responsible for these modifications.

### III. Budget & Financial

- A. The COUNTY will apply CDBG funds received in the amount not to exceed **\$125,000** to the PROJECT. The obligations of the COUNTY are expressly subject to the COUNTY receiving funds from HUD for the PROJECT, the COUNTY'S financial contribution shall not exceed the amount finally granted, released and approved by HUD for this PROJECT.
- B. The parties agree that the CDBG funds will be applied first to the total cost of the PROJECT. When and if the total cost of the PROJECT exceeds the CDBG funds, COLTON WATER will contribute.
- C. COLTON WATER agrees to contribute the greater of:
1. Twenty percent (20%) of the total cost of the PROJECT, or
  2. All costs for design and construction which exceed available CDBG funds budgeted (**\$125,000**) for the PROJECT.
- D. In addition to COLTON WATER's contribution for the total cost of the PROJECT, COLTON WATER will contribute the cost of engineer services. However, COLTON WATER shall credit 15% of the final cost of engineering toward the COLTON WATER's contribution to the total cost of the PROJECT as described in III.C.
- E. COLTON WATER agrees to provide funds for the PROJECT to the COUNTY in the following manner:



1. In the event a contractor is entitled to payments for work completed above and beyond the amount of CDBG funds received from HUD for the PROJECT, the COUNTY shall request a transfer of funds from COLTON WATER for the amount necessary to make such payments. COLTON WATER shall transfer funds which exceed available CDBG funds and are owed to a contractor to the COUNTY within thirty (30) consecutive calendar days of a written request.
2. Upon receipt of written notification from the COUNTY, COLTON WATER shall provide payment within thirty (30) consecutive calendar days to the COUNTY the funds necessary to meet the matching contribution requirement in Part III. B. All checks shall be made payable to Clackamas County, include Project #53581 and be mailed to the following address:

Attn: Larry Crumbaker  
Clackamas County - Finance Office  
Public Services Building  
2051 Kaen Road  
Oregon City, OR 97045
3. In the event that unforeseeable conditions arise which necessitate the execution of a change in the amount of the construction contract, COLTON WATER and the COUNTY will jointly evaluate the circumstances surrounding the conditions. Upon approval by COLTON WATER and the COUNTY, the COUNTY shall instruct the Engineer to execute a change order.
4. Funds for the change order(s) shall be funded primarily by COLTON WATER. The COUNTY will provide CDBG funds for change order(s) if there are still those funds available to use as outlined in Section III, A.

#### **IV. Liaison Responsibility**

Jan Kaforski, will act as liaison from COLTON WATER for the PROJECT. Mark Sirois will act as liaison from the COUNTY.

#### **V. Special Requirements**

- A. Law and Regulations. The COUNTY and COLTON WATER agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.
- B. Public Contracting Requirements. To the extent applicable, the provisions of ORS 279B.220, 279B.225, 279B.230, and 279B.235 are incorporated by this reference as though fully set forth.

- C. Relationship of Parties. Each party is an independent contractor with regard to the other party. Neither party is an agent or employee of the other. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- D. Indemnification. Subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, the COLTON WATER agrees to indemnify, defend and hold harmless the COUNTY, its officers, elected officials, agents and employees from and against all liability, loss and costs arising from actions, suits, 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 COLTON WATER or its employees or agents, in performance of this Agreement.
- Subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, the COUNTY agrees to indemnify, defend and hold harmless COLTON WATER, its officers, commissioners, agents and employees from and against all liability, loss costs arising from actions, suits, 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 COUNTY or its employees or agents, in performance of this Agreement.
- E. Notice. Each party shall give the other immediate written notice of any action or suit filed or any claim made against the party which may result in litigation in any way related to this Agreement.
- F. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents shall be retained for a period of three (3) years after receipt of final payment under this Agreement; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.
- G. Access to Records. The COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of COLTON WATER which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcripts.
- H. Debt Limitation. This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Obligations of the COUNTY are also expressly subject to the COUNTY receiving funds from HUD for this project and in no event shall the COUNTY's financial contribution

exceed the amount finally granted, released and approved by HUD for this project.

- I. Conflict of Interest. No officer, employee, or agent of COLTON WATER or COUNTY who exercises any functions or responsibilities in connection with the planning and carrying out of the Block Grant Program, or any other person who exercises any functions or responsibilities in connection with the program, shall have any personal financial interest, direct or indirect, in the use of the funds provided pursuant to this Agreement, and the Parties shall take appropriate steps to assure compliance. The Parties will insure that no contractor, subcontractor, contractor's employee or subcontractor's employee has or acquires any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services.
- J. Insurance. COLTON WATER will bear the risk of loss from fire, extended coverage, and will purchase and maintain property insurance on all affected COLTON WATER property. COLTON WATER will bear the risk of loss from accidents coverable by owner's liability insurance and may, at its option, maintain such insurance. If applicable, COLTON WATER shall be required to maintain flood insurance. Each party agrees to maintain insurance, or self-insurance, in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.272.
- K. Nondiscrimination. COLTON WATER and the COUNTY agree to comply with all Federal, State, and local laws prohibiting discrimination on the basis of age, sex, marital status, race, creed, color, national origin, familial status, or the presence of any mental or physical handicap. These requirements are specified in ORS chapter 659; Section 109 of the Housing and Community Development Act of 1974; Civil Rights Act of 1964, Title VII; Fair Housing Amendments Act of 1988; Executive Order 11063; Executive Order 11246; and Section 3 of the Housing and Urban Development Act of 1968; all as amended; and the regulations promulgated thereunder.
- L. Handicapped Accessibility. COLTON WATER agrees that all improvements made under this Agreement shall comply with standards set for facility accessibility by handicapped persons required by the Architectural Barriers Act of 1968, as amended. Design standards for compliance are contained in 24 CFR 8.31-32 and the document entitled Uniform Federal Accessibility Standards published by HUD in April, 1988 as a joint effort with other Federal agencies.
- M. Nonsubstituting for Local Funding. The CDBG funding made available under this Agreement shall not be utilized by COLTON WATER to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of funds under this Agreement.
- N. Evaluation. COLTON WATER agrees to participate with the COUNTY in any evaluation project or performance report, as designed by the COUNTY or the

appropriate Federal department, and to make available all information required by any such evaluation process.

- O. Audits and Inspections. COLTON WATER will ensure that the COUNTY, the Secretary of HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to all books, accounts, records, reports, files, and other papers or property pertaining to the funds provided under this agreement for the purpose of making surveys, audits, examinations, excerpts, and transcripts.
- P. Acquisition. If completion of the project requires acquisition of any real property the parties agree to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended.
- Q. Change of Use. COLTON WATER agrees to comply with applicable change of use provisions contained in 24 CFR 570.505 (refer to Attachment C).
- R. Reversion of Assets. Upon expiration or termination of this Agreement, COLTON WATER shall transfer to COUNTY any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Also for any real property under COLTON WATER'S control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to COLTON WATER in the form of a loan) in excess of \$25,000 or less based on the CDBG amount shall ensure said real property is either:
  - 1. Used to meet one of the National Objectives in CFR 570.208 for the term of this Agreement; or
  - 2. Not used to meet on the National Objectives for the term of this Agreement, in which event, COLTON WATER shall pay to COUNTY an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

## VI. Amendment

This Agreement may be amended at any time with the concurrence of both Parties. Amendments become a part of this Agreement only after the written amendment has been signed by both Parties.

## VII. Term of Agreement

- A. This Agreement becomes effective when it is signed by both Parties.
- A. The term of this Agreement is a period beginning when it becomes effective and ending ten (10) years after completion of the PROJECT.



- B. This Agreement may be suspended or terminated prior to the expiration of its term by:
1. Written notice provided to the COUNTY from COLTON WATER before any materials or services for improvements are procured; or
  2. Written notice provided by the COUNTY in accordance with 24 CFR 85.43, included as ATTACHMENT D, resulting from material failure by COLTON WATER to comply with any term of this Agreement; or
  3. Mutual agreement by the COUNTY and COLTON WATER in accordance with 24 CFR 85.44.
- D. Upon completion of improvements or upon termination of this Agreement, any unexpended balances of CDBG funds shall remain with the COUNTY.

#### **VIII. Integration**

This Agreement contains the entire agreement between COLTON WATER and the COUNTY and supersedes all prior written or oral discussions.

#### **IX. Severability**

If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

#### **X. Oregon Law and Forum**

This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of laws provisions thereof.

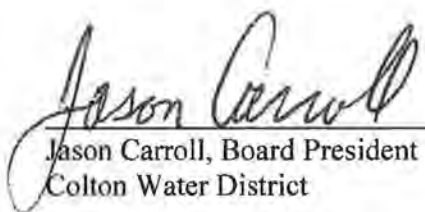
#### **XI. Waiver**

COLTON WATER and COUNTY shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

*[Signature Page Follows]*

**COLTON WATER DISTRICT**

20987 South Hwy 211  
Colton, Oregon 97017

  
\_\_\_\_\_  
Jason Carroll, Board President  
Colton Water District

Dec 19, 2017  
\_\_\_\_\_  
Date

**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 & Human Services  
Department

\_\_\_\_\_  
Date



**ATTACHMENT A (1) - CDBG Performance Measures Report**

FOR THE PERIOD: JULY 1, 2017 TO JUNE 30, 2018

**Project Name: Virgil Waterline Improvements Project**

The Service Area for this project is contained within Census Tract 024100 Block Group 3 of the Colton Water District portion of this Block Group is 47.72 % Low- and Moderate-Income.

Choose all that apply:

# of persons \_\_\_\_\_ with new access to this Public Facility or Infrastructure Improvement  
# of persons 770 with improved access to Public Facility or Infrastructure Improvement  
# of persons \_\_\_\_\_ with access to this type of Public Facility or Infrastructure Improvement that is No Longer Substandard.

Total Number of persons assisted: 770

See Attached Project Map Area:

Other benefits to the service area:

\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Organization

**ATTACHMENT A(2)**





**ATTACHMENT B - CDBG Project Matching Funds Report**

**For reporting to HUD at the end of the year, indicate the specific sources and amounts of matching funds for the Virgil Waterline Improvements Project (Colton Water District):**

2017-18 CDBG Funds	\$125,000 (max.)
--------------------	------------------

<b>SOURCES OF LOCAL MATCH:</b>	
Other Federal (including pass-through funds, e.g. County CDBG, State FEMA, etc.)	
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

State/Local Governmental Funding (e.g. State Housing Trust Funds, Local Assessment, etc.)	
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

<b>Private (including recipient) Funding</b>	
Fund Raising/Cash	\$ _____
Loans	\$ _____
Building Value or Lease	\$ _____
Donated Goods	\$ _____
New Staff Salaries	\$ _____
Volunteers (\$10/hr)	\$ _____
Volunteer Medical/Legal	\$ _____
Other	\$ _____

Prepared By: (Print name) \_\_\_\_\_

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

## ATTACHMENT C

### Change of Use

#### Excerpt from 24 CFR Part 570

#### 570.505 Use of real property.

The standards described in this section apply to real property within the recipient's control which was acquired or improved in whole or in part using CDBG funds in excess of \$25,000. These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of an entitlement recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the closeout of the grant from which the assistance to the property was provided.

(a) A recipient may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made unless the recipient provides affected citizens with reasonable notice of, and opportunity to comment on, any proposed change, and either;

(1) The new use of such property qualifies as meeting one of the national objectives in 570.208 (formerly 570.901) and is not a building for the general conduct of government; or

(2) The requirements and paragraph (b) of this section are met.

(b) If the recipient determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a)(1) of this section, it may retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.

(c) If the change of use occurs after closeout, the provisions governing income from the disposition of the real property in 570.504(b) (4) or (5), as applicable, shall apply to the use of funds reimbursed.

(d) Following the reimbursement of the CDBG program in accordance with paragraph (b) of this section, the property no longer will be subject to any CDBG requirements.

## ATTACHMENT D

### Excerpt from 24 CFR Part 85

#### §85.43 Enforcement.

(a) *Remedies for noncompliance.* If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,

(2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,

(3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,

(4) Withhold further awards for the program, or

(5) Take other remedies that may be legally available.

(b) *Hearings, appeals.* In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) *Effects of suspension and termination.* Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

(1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to Debarment and Suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549 (see §85.35).

#### §85.44 Termination for convenience.

Except as provided in §85.43 awards may be terminated in whole or in part only as follows:

(a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

(b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either §85.43 or paragraph (a) of this section.

January 18, 2018

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of Agreement #17-18530 with  
Ride Connection, Inc. to Provide Funding for Rides Provided  
by Members of the Clackamas County Transportation Consortium

<b>Purpose/Outcomes</b>	Social Services-Transportation Reaching People and Senior Center based transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
<b>Dollar Amount and Fiscal Impact</b>	Agreement Amount \$929,387.88. This agreement is funded through the agreements with State of Oregon, Special Transportation Formula Fund (STF) and Tri-County Metropolitan Transportation District of Oregon (Tri-Met).
<b>Funding Source</b>	State of Oregon, ODOT-STF and Tri-Met General funds. No County General Funds are involved
<b>Duration</b>	Effective July 1, 2017 and terminates on June 30, 2018
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
<b>Contact Person</b>	Brenda Durbin, Director, Social Services Division 503-655-8641
<b>Contract No.</b>	8610

**BACKGROUND:**

The Social Services Division of the Health, Housing and Human Services Department request approval of Agreement #17-18530 with Ride Connection, Inc. This agreement provides funding for rides provided throughout the County by members of the Clackamas County Transportation Consortium. This agreement provides continued funding for FY2017-18 to reimburse members of the Clackamas County Transportation Consortium for transportation services they provide to Clackamas County seniors and persons with disabilities. These funds help residents to remain independent and engaged in their community as long as possible.

Any disabled adult or person over the age of 60 living in Clackamas County has access to transportation services through either their local Adult/Senior Community Centers or the Social Services Transportation Reaching People (TRP) program. The Centers located in Canby, Estacada, Gladstone, Hoodland/Welches, Lake Oswego, Milwaukie, Molalla, Oregon City, and Sandy provide rides in lift equipped mini-buses and/or vans to residents in their service area. The transportation services provided by senior centers are primarily to the centers for participation in the nutrition programs and the various services and recreational programs offered at the centers. However, the

Centers also provide group transportation for shopping, personal business, and medical appointments in their local area. Some centers, using ODOT/STF Formula funds, use taxis to provide transportation to medical facilities outside their service area. The TRP program provides rides in lift equipped mini-buses or mini-vans driven by paid staff or in privately owned autos driven by volunteers. TRP provides transportation throughout the county and to medical facilities located in the Portland-metro area. The majority of TRP rides are for medical transportation. TRP also provides rides for residents to conduct other personal business; including accessing food banks and grocery stores. In general, transportation is provided weekdays between 8:00 am and 5:00pm.

This agreement is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their agreement and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its agreements for FY17-18. County Council reviewed and approved this agreement on 12/12/17. No County General Funds are involved.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing and Human Services

**SERVICES AGREEMENT #17-18530  
BETWEEN  
RIDE CONNECTION INC. and Clackamas County Consortium**

**PARTIES:**

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Consortium ("Subrecipient")

**RECITALS:**

1. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved STF and other funds to Subrecipient for Subrecipient's accomplishment of the Project(s). **Maximum amount of Grant funds shall not exceed \$929,387.88. These funds, and any applicable rollover, shall be used solely for the Project(s) and not be used for any other purpose.**
2. Oregon Department of Transportation ("ODOT") has made Special Transportation Funds (STF) funds available to Tri-County Metropolitan Transportation District of Oregon ("TriMet"). Ride Connection is a pass-through recipient of these funds through Grant from TriMet.
3. Tri-County Metropolitan Transportation District of Oregon ("TriMet") has made general funds available to Ride Connection, to pass-through to Clackamas County Consortium which provides transportation services inside the TriMet services District.
4. Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.

**AGREEMENTS:**

**1. General**

- A. Subrecipient agrees to comply with and use the STF funds in accordance with the terms of this Agreement including the terms of ORS 391.80 through 391.830 and the provisions of OAR Chapter 732 as may be amended, all of which are incorporated into and made part of this Agreement. Specific contractual requirements applicable to Subrecipient under this Agreement are set forth in Exhibits A, B, C, D, E, and F which are incorporated into and made part of this Agreement. Any conflict among the terms of this Agreement shall be resolved in accordance with the following order of precedence: this Agreement form, Exhibit A, Exhibit B, Exhibit C, and Exhibit D. This Agreement is subject to any agreements between TriMet, and ODOT, and Ride Connection regarding disbursement of STF and other funds, and shall be amended to incorporate those changes.

Subrecipient agrees to comply with all Subrecipient monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited

to Title VI compliance.

Subrecipient shall not be relieved of any responsibility of performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient shall require any subcontractor performing services under this Agreement to enter into a written agreement with Subrecipient before the commencement of services, which shall require the subcontractor to comply with ORS 391.800 through 391.830, OAR Chapter 732, as may be amended, and the terms of this Agreement. Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound by the following paragraphs of this agreement as if the subcontractor were the Subrecipient: Paragraphs 2 through 5.

- B. **Scope of Services and Changes** - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A, in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet, ODOT, and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly.
- C. **Audit Right** – Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.

In the event that any audit or review of Subrecipient's records reveals a variance of Five Percent (5%) or more in cost overruns or charges in excess of any agreed upon price, then Ride Connection's costs of audit or review shall be reimbursed immediately by Subrecipient.

- D. **Subcontracts** – Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.

- (1) Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program

Fraud Civil Remedies” 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.

- (2) Subrecipient also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.
- (3) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.

E. **Drug-Free Covered Agreement** - This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Subrecipient is required to verify that none of Subrecipient, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Subrecipient makes a material representation of fact relied upon by Ride Connection that Subrecipient has complied with 49 CFR Part 29. If it is later determined that Subrecipient knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to Ride Connection, TriMet and the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Subrecipient is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

## 2. **Audit Requirements/Financial Management Procedure**

- A. STF funds disbursed by this Agreement shall be specifically addressed in Subrecipient’s annual audits, and the terms of Exhibit B shall apply. Ride Connection may request additional information including, but not limited to, audits of specific projects or services. Subrecipient will adhere to financial management procedures in accordance with Oregon and other applicable laws, and specifically as provided by ORS 391.800 through 391.830 and OAR Chapter 732 in addition to the requirements set forth in Exhibit B.

Subrecipient shall comply with applicable federal, state, and local laws as well as generally accepted accounting principles (GAAP) for accounting, billing, and reporting requirements with STF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.**



- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement.
- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- (1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.
- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

### 3. Reporting Requirements

In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than 20 days after the close of each month. Monthly reports should be remitted via Ride Connection's established process that meets the requirements of Exhibits A, B, and E.

Reports must be in a format acceptable to Ride Connection and include:

- A statement of revenues and expenses for each month, including documentation of local match contributions and expenses.
- A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.

Reports shall include complete information required by FTA Circular 5010.1C, Chapter III, Section (3) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

Ride Connection, TriMet, and the State reserve the right to request additional information as may be necessary to comply with state reporting requirements.

#### **4. Withholding of Funds**

In addition to any other provisions of this Agreement including but not limited to Exhibits A, B, C, D, E, and F, Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in Section 12. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and assumes responsibility for breach of conditions of the STF funding requirements hereunder by Subrecipient. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet and or, ODOT or otherwise incur costs from funder withholding of funds, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld plus any additional costs or expenses incurred by Ride Connection.

In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

#### **5. Discrimination Prohibited/Compliance with Laws**

Subrecipient certifies that no person shall, on the grounds of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law, be excluded from participation in, or be denied the benefits of, any activity for which Subrecipient receives STF funds. Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, physical or mental disability, marital or veteran status, sexual orientation, gender identity, or any other characteristic protected by law.

Subrecipient shall comply with all applicable federal, state and local laws, rules and regulations applicable to the work hereunder, including without limitation, provisions required in public contracts under ORS Chapter 279, civil rights laws and all requirements established by the Americans with Disabilities Act of 1990 and FTA regulations at 49 CFR Parts 37 and 38, and all provisions of this Agreement.

#### **6. Independent Contractor/Indemnification**

A. The parties agree that Ride Connection shall have no liability of any nature in connection with the Subrecipient's use of the funds or Subrecipient's provision of transportation services. To the fullest extent permitted by law, Subrecipient agrees to fully indemnify, hold harmless and defend, Ride Connection, its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, directors, employees, agents, subcontractors and volunteers under this Agreement. The provisions set forth in this subparagraph shall survive termination or expiration of this Agreement.

- B. Indemnified Conditions - Subject to the Oregon Tort Claims Act and the Oregon Constitution, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the "Indemnitees") from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:
- i. Bodily injury or death to any person;
  - ii. Property damage to any personal or real property owned by anyone;
  - iii. Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
  - iv. Infringement of any intellectual property or other third party rights;
  - v. Discharge or causing the discharge of any hazardous or polluting substance; and
  - vi. Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property where the Services are performed.
- C. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend the State of Oregon, TriMet, Ride Connection, and their directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigations and defense, but not limited to the liabilities enumerated above, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- D. Indemnitee Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, TriMet, or Ride Connection.
- E. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.

## **7. Vehicle/ Operator Requirements**

Subrecipient shall ensure that all drivers of equipment have a valid driver's license and have been approved to drive by Ride Connection. Drivers of equipment designed to carry 16 or more

passengers, including the driver, shall have a valid Commercial Driver's License (CDL). Subrecipient shall otherwise ensure that operation of the vehicles is performed in accordance with all applicable laws and regulations.

Subrecipient shall perform criminal, Department of Motor Vehicles and employment background checks as part of the eligibility requirements for all drivers.

Subrecipient shall only let approved drivers transport customers or drive Ride Connection network vehicles.

## **8. Funding**

A. No more than monthly, Ride Connection shall reimburse Subrecipient for costs associated with activities outlined in Exhibit A. Reimbursement requests will only be paid when actual costs have been incurred and not beforehand.

Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.

B. The maximum funding to be disbursed to Subrecipient under this Agreement is \$929,387.88

C. Subrecipient shall document eligible use of STF and TriMet funds in accordance with this Agreement.

D. All invoices shall be submitted electronically to Ride Connection Accounts Payable at [accountspayable@rideconnection.org](mailto:accountspayable@rideconnection.org).

E. Payment Terms - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.

## **9. Term**

This Agreement shall be in effect from July 1, 2017 through June 30, 2018, unless the Agreement is terminated earlier as provided in this Agreement.

## **10. Communications**

All communications between the parties regarding this Agreement shall be directed to the parties' respective Project Managers as indicated below:

Ride Connection:  
Dean Orr  
Ride Connection  
9955 NE Glisan St.  
Portland, OR 97220

Subrecipient:  
Stefanie Reid  
Clackamas County Consortium  
2051 Kaen Rd  
Oregon City, OR 97045-1819

If one party finds a need to designate a new Project Manager, they shall immediately notify the other party in writing, electronic mail, or other dated documentation.

### **11. Assignment/Subcontracts**

Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A.

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

### **12. Dispute Resolution**

**Executive Negotiation** - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.

**Mediation** - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.

**Arbitration** - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.

Costs and Award – The prevailing party in any arbitration shall be eligible for the award of all dispute resolution costs and expenses, through all tiers of dispute resolution, including mediation, if so awarded by the arbitrator or court of jurisdiction.

### **13. Claims, Notice**

- A. Notice Period - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to funder (whichever is sooner).
- B. Notice Content - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.
- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing.

### **14. Confidential Information**

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

### **15. Governing Law**

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

### **16. Surviving Provisions**

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1C (Audit); 6 (Indemnification); 14 (Confidential Information); 18 (Dispute Resolution); 16 Governing Law, 17(Surviving Provisions); Exhibit B 3B (Recordkeeping); and Exhibit F (Insurance).

**17. Entire Agreement/Authority**

This Agreement and the attached Exhibits A, B, C, D, E, and F constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision.

If any term of this Agreement is determined by a court to be illegal or conflict with any law, the remaining terms shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

**18. Agreement Documents**

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

- Exhibit A: Scope of Work
- Exhibit B: Specific Agreement Provisions
- Exhibit C: Federal Terms and Conditions
- Exhibit D: Nondiscrimination Certificate
- Exhibit E: Reporting Requirements
- Exhibit F: Insurance Requirements

**WISHING TO BE LEGALLY BOUND**, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

**RIDE CONNECTION, INC.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**CLACKAMAS COUNTY**  
 Commissioner: Jim Bernard, Chair  
 Commissioner: Sonya Fischer  
 Commissioner: Ken Humbertson  
 Commissioner: Paul Savas  
 Commissioner: Martha Schrader  
**Signing on Behalf of the Board:**

By: \_\_\_\_\_  
 Rich Swift, Director  
 Health, Housing and Human Services

Dated: \_\_\_\_\_

**Approved to Form:**

By: \_\_\_\_\_  
 Clackamas County Council

Dated: \_\_\_\_\_

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Agency Service Contract with Clackamas County Children’s Commission for  
Kindergarten Partnership Innovation Services

<b>Purpose/Outcomes</b>	Programming includes kindergarten readiness activities and social emotional support for preschool aged children and their families, as well as technical support and resources for early childhood service providers
<b>Dollar Amount and Fiscal Impact</b>	\$19,666 No fiscal impact to the County and no County General Funds are involved
<b>Funding Source</b>	Oregon Department of Education – Early Learning Division
<b>Duration</b>	October 1, 2017 through September 30, 2019
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Individuals and families in need are healthy and safe</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Rodney A. Cook 503-650-5677
<b>Contract No.</b>	CYF 8593

**BACKGROUND:**

Children, Youth & Families Division of the Health, Housing and Human Services Department requests approval of Agency Service Contract with Clackamas County Children’s Commission to provide kindergarten readiness activities, literacy and social emotional support to preschool and kindergarten students, supports to families to promote ability to support their child’s early learning and school readiness, and intensive support to kindergarten students identified as at-risk/high risk.

This contract has a maximum value of \$19,666. No County General funds are involved and no match is required. It becomes effective upon signature by all parties for services starting October 1, 2017 and terminating September 30, 2019. It has been reviewed and approved by County Counsel on December 27, 2017. This contract is retroactive due to County Finance requiring the contract be changed from Subrecipient agreement to agency services contracts.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services



## AGENCY SERVICE CONTRACT

### Contract # 8593

This contract is between Clackamas County, acting by and through its department of Health, Housing, & Human Services, Children, Youth & Families Division, hereinafter called "COUNTY," and Clackamas County Children's Commission, hereinafter called "AGENCY."

#### I. SCOPE OF SERVICES

- A. AGENCY agrees to accomplish the following work under this contract:

Implement 12 instructional workshops for 120 Head Start children and their parents and 12 Head Start teachers to support school readiness in the domain of mathematics (a minimum of 9 hours of education) in Clackamas County as outlined in *Exhibit A-1: Statement of Program Objectives*, *Exhibit A-2 Performance Reporting Schedule and Work Plan Quarterly Report*, *Exhibit A-3 Client Feedback Survey and Report*, and *Exhibit A-4: Quarterly Demographic Report*, attached hereto.

- B. This agreement becomes effective upon signature by all parties for services starting October 1, 2017 and shall terminate September 30, 2019.

#### II. COMPENSATION AND RECORDS

- A. Compensation. COUNTY shall compensate the AGENCY for satisfactorily performing the services identified in Section I: Scope of Services. AGENCY use of funds may not exceed the amount specified in *Exhibit B: Program Budget*, attached hereto. AGENCY may not transfer funds between budget lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of this agreement.

Total maximum compensation under this contract shall not exceed **\$19,666**, broken down by fiscal year as follows:

- FY 10/1/2017 – 6/30/2018 \$9,017
- FY 7/1/2018 – 6/30/2019 \$8,519
- FY 7/1/2019 – 9/30/2019 \$2,130

Payment shall be made on a cost reimbursement basis and disbursements will be made monthly in accordance with the requirements outlined in *Exhibit C-1: Financial Report and Request for Reimbursement*, attached hereto and incorporated herein.

- B. Method of Payment. To receive payment, AGENCY shall submit monthly requests for reimbursement and required documentation as outlined in *Exhibit C-1: Financial Report and Request for Reimbursement* and *Exhibit C-2: Monthly Activity Report*.

Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should AGENCY fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for causes may continue until AGENCY submits required reports, performs required services, or establishes COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

- C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this contract and all other pending matters are closed.

- D. Access to Records. COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of AGENCY which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcripts.

If an audit discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, then AGENCY shall repay the amount of the excess to COUNTY.

### III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations, and Special Federal Requirements. AGENCY shall comply with all Federal and State regulations and laws, Oregon Administrative Rules, local laws and ordinances applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in *Exhibit D: Special and Standard Terms and Conditions* and *Exhibit E: Kindergarten Partnership and Innovation Program Requirements*, attached hereto and incorporated herein. AGENCY must, throughout the duration of this contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this contract. Further, any violation of AGENCY'S warranty, in this contract that AGENCY has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle COUNTY to terminate this contract, to pursue and recover any and all damages that arise from the breach and the termination of this contract, and to pursue any or all of the remedies available under this contract, at law, or in equity, including but not limited to:

1. Termination of this contract, in whole or in part;
2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to AGENCY, in an amount equal to COUNTY'S setoff right, without penalty; and
3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of AGENCY'S breach of this contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

- B. Background Checks. Criminal Background checks are required for direct service staff funded through this contract.
- C. Mandatory Reporting. Mandatory reporting is required for direct service staff funded through this contract.
- D. Precedence. When a requirement is listed both in the main boilerplate of the contract and in an Exhibit, the Exhibit shall take precedence.
- E. Subcontracts. AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from COUNTY.
- F. Independent Contractor. AGENCY certifies that it is an independent contractor and not an employee or agent of Clackamas County, State or Oregon or Federal government. AGENCY is not an officer, employee or agent of Clackamas County as those terms are used in ORS 30.265.

Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.

G. Tax Laws. AGENCY represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
2. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, to AGENCY'S property, operations, receipts, or income, or to AGENCY'S performance of or compensation for any work performed by AGENCY;
3. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, or to goods, services, or property, whether tangible or intangible, provided by AGENCY; and
4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

#### IV. GENERAL CONDITIONS

A. Indemnification. AGENCY agrees to indemnify, save, hold harmless, and defend COUNTY and its officers, elected officials, commissioners, agents, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demands attributable in whole or in part to the acts or omissions of AGENCY, and AGENCY's officers, agents and employees, in performance of this contract.

If AGENCY is a public body, AGENCY's liability under this contract is subject to the limitations of the Oregon Tort Claims Act.

B. Insurance.

1. Commercial General Liability Insurance

Required by COUNTY       Not required by COUNTY

AGENCY shall obtain, at AGENCY's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$3,000,000 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 contract. 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 Insurance

Required by COUNTY       Not required by COUNTY

AGENCY shall also obtain, at AGENCY's expense, and keep in effect during the term of the contract, "Symbol 1" 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 \$3,000,000.

3. Professional Liability Insurance

Required by COUNTY       Not required by COUNTY

AGENCY agrees to furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/ \$3,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of 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 contract. COUNTY, at its option, may require a complete copy of the above policy.

4. Physical Abuse and Molestation Insurance Coverage. Abuse and molestation Insurance in a form and with coverage that are satisfactory to the Agency covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee is responsible including but not limited to grantee and Grantee's employees and volunteers. Policy endorsement's definition of an insured shall include the Grantee, and the Grantee's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individual, and irrespective of the number of incidents or injuries or the time period or are over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.
5. Excess/Umbrella Insurance. A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.
6. 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.
7. Tail Coverage. If liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the AGENCY's insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this contract.
8. Additional Insured Provisions. The insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its agents, officers, elected officials, and employees" as an additional insured, as well as the "State of Oregon, its officers, employees and agents", but only with respect to AGENCY's activities under this agreement.
9. 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 COUNTY. Any failure to comply with this provision will not affect the insurance coverage



provided to COUNTY. The 30 days' notice of cancellation provision shall be physically endorsed on to the policy.

10. Insurance Carrier Rating. Coverages provided by AGENCY 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.
  11. Certificates of Insurance. As evidence of the insurance coverage required by this contract, AGENCY shall furnish a Certificate of Insurance to county. No contract shall be in effect until the required certificates have been received, approved and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration. The certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance.
  12. Primary Coverage Clarification. AGENCY's 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.
  13. Cross-Liability Clause. A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, and errors and omissions policies required by this contract.
  14. Waiver of Subrogation. AGENCY agrees to waive their rights of subrogation arising from the work performed under this agreement.
- C. Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this agreement consents to the in personam jurisdiction of said courts.
- D. Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by AGENCY and COUNTY.
- E. 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 or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.
- F. Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.
- G. 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.
- H. Oregon Constitutional Limitations. 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 provision herein, which would conflict with such law, is deemed inoperative to that extent.

- I. Oregon Public Contracting Requirements. Pursuant to the requirements of ORS 279B.020 and ORS 279B.220 through 279B.235 the following terms and conditions are made a part of this contract:

1. AGENCY shall:
  - a. make payments promptly, as due, to all persons supplying to AGENCY labor or materials for the prosecution of the work provided for in this contract.
  - b. pay all contributions or amounts due the Industrial Accident Fund from such agency or subcontractor incurred in performance of this 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 to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
2. If AGENCY fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to AGENCY or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing 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 AGENCY by reason of this contract.
3. No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay:
  - a. for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday;
  - b. for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
  - c. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
4. AGENCY shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under person services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.
5. As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all moneys and sums that AGENCY collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.
6. Workers' Compensation. All subject employers working under this agreement must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an

exemption under ORS 656.126. AGENCY shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

- J. Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of COUNTY.
- K. Integration. This contract contains the entire agreement between COUNTY and AGENCY and supersedes all prior written or oral discussions or agreements.
- L. Successors in Interest. The provisions of this contract shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

#### V. TERMINATION

- A. Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon thirty (30) business days' notice, in writing and delivered by certified mail or in person.
- B. Termination With Cause. COUNTY, by written notice of default (including breach of contract) to AGENCY, may terminate this agreement effective upon delivery of written notice to AGENCY, or at such later date as may be established by COUNTY, under any of the following conditions:
  - 1. If COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services, the contract may be modified to accommodate a reduction in funds.
  - 2. If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this agreement.
  - 3. If any license or certificate required by law or regulation to be held by AGENCY to provide the services required by this agreement is for any reason denied, revoked, or not renewed.
  - 4. If AGENCY fails to provide services, outcomes, reports as specified by COUNTY in this agreement.
  - 5. If AGENCY fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within 10 days or such longer period as COUNTY may authorize.

This contract consists of five (5) sections plus the following attachments which by this reference are incorporated herein:

- Exhibit A-1: Statement of Program Objectives
- Exhibit A-2: Performance Reporting Schedule and Work Plan Quarterly Report
- Exhibit A-3: Client Feedback Survey and Report
- Exhibit A-4: Quarterly Demographic Report
- Exhibit B: Program Budget
- Exhibit C-1: Financial Report and Request for Reimbursement
- Exhibit C-2: Monthly Activity Report
- Exhibit D: Special and Standard Terms and Conditions
- Exhibit E: KPI Program Requirements

**AGENCY**

Clackamas County Children's Commission  
16518 SE River Road  
Milwaukie, OR 97267

By:   
Sue Elder, Executive Director

Date: 1/31/2018

DUNS: 620261503

EIN: 93-0624672

**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

Date: \_\_\_\_\_

  
Rodney A. Cook, Director  
Children, Youth & Families Division

Date: 1-3-18



January 18, 2018

Board of Commissioners  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with  
Clackamas Education Service District for Focused Child Care Networks

<b>Purpose/Outcomes</b>	Focused Child Care Network programming identifies child care providers in Clackamas County serving low income and/or Latino families and provides training and technical assistance to improve the quality of child care and increase Quality Improvement Ratings for providers of care.
<b>Dollar Amount and Fiscal Impact</b>	\$188,702 No fiscal impact to the County
<b>Funding Source</b>	ODE Early Learning Division State General Funds
<b>Duration</b>	October 1, 2017 through September 30, 2019
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Individuals and families in need are healthy and safe</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Rodney A. Cook 503-650-5677
<b>Contract No.</b>	8603

**BACKGROUND:**

Children, Youth & Families Division of Health, Housing & Human Services Department requests approval of an Intergovernmental Agreement with Clackamas Education Service District for Focused Child Care Networks. A minimum of three networks will work with a minimum of providers of family child care to provide them with training and technical assistance to increase the quality of child care and achieve State of Oregon Quality Improvement Ratings.

There are no county general funds involved in this Agreement and it has been reviewed and approved by County Counsel on December 27, 2017. It becomes effective upon signature by all parties for services starting October 1, 2017 and terminates September 30, 2019. It has a maximum value of \$188,702. This contract is retroactive due to County Finance requiring the contract be changed from Subrecipient agreement to agency services contracts.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services

*Healthy Families. Strong Communities.*

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
CLACKAMAS EDUCATION SERVICE DISTRICT  
AND  
CLACKAMAS COUNTY CHILDREN, YOUTH & FAMILIES DIVISION**

**Contract # 8603**

This Agreement is entered into by and between Clackamas County, acting by and through its department of Health, Housing, & Human Services, Children, Youth & Families Division (H3S-CYF), hereinafter called "COUNTY" and Clackamas Education Service District (CESD), hereinafter called "AGENCY". This Agreement is effective upon signature by all parties for services starting October 1, 2017 and terminating September 30, 2019.

**RECITALS**

WHEREAS, CESD and H3S-CYF are units of local government, as that term is defined in ORS 190.003; and,

WHEREAS, ORS 190.010 provides that units of local government may enter into written agreements for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have authority to perform. The statute also provides that the agreement may provide for the performance of a function or activity as further set forth in the statute.

I. Purpose of Intergovernmental Agreement (IA).

AGENCY agrees to accomplish the following work under this IA:

Provide support to three (3) focused child care networks consisting of a minimum of 18 family child care providers (minimum of 6 for each network) in both rural and urban areas of Clackamas County and including one Spanish language network as outlined in *Exhibit A-1: Statement of Program Objectives, Exhibit A-2 Performance Reporting Schedule and Work Plan Quarterly Report, Exhibit A-3 Client Feedback Survey and Report, and Exhibit A-4: Quarterly Demographic Report*, attached hereto.

II. **COMPENSATION AND RECORDS**

A. Compensation. COUNTY shall compensate the AGENCY for satisfactorily performing the services identified in Section I: Scope of Services. AGENCY use of funds may not exceed the amount specified in *Exhibit B: Program Budget*, attached hereto. AGENCY may not transfer funds between budget lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of this agreement.

Total maximum compensation under this IA shall not exceed \$188,702, broken down by fiscal year as follows:

- FY 10/1/2017 – 6/30-2018      \$89,702
- FY 07/1/2018 – 6/30/2019      \$79,200
- FY 07/1/2019 – 9/30/2019      \$19,800

Payment shall be made on a cost reimbursement basis and disbursements will be made monthly in accordance with the requirements outlined in *Exhibit C-1: Financial Report and Request for Reimbursement*, attached hereto and incorporated herein.

B. Method of Payment. To receive payment, AGENCY shall submit monthly requests for reimbursement and required documentation as outlined in *Exhibit C-1: Financial Report and Request for Reimbursement* and *Exhibit C-2: Monthly Activity Report*.

Withholding of Payments. Notwithstanding any other payment provision of this agreement, should AGENCY fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for causes may continue until AGENCY submits required reports, performs required services, or establishes COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

- C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this IA shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this IA and all other pending matters are closed.
- D. Access to Records. COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of AGENCY which are directly pertinent to this IA for the purpose of making audit, examination, excerpts, and transcripts.

If an audit discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, then AGENCY shall repay the amount of the excess to COUNTY.

### III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations, and Special Federal Requirements. AGENCY shall comply with all Federal and State regulations and laws, Oregon Administrative Rules, local laws and ordinances applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in *Exhibit D: Standard and Special Terms and Conditions*, and *Exhibit E: FCCN Program Requirements*, attached hereto and incorporated herein. AGENCY must, throughout the duration of this IA and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this IA. Further, any violation of AGENCY'S warranty, in this IA that AGENCY has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this IA. Any violation shall entitle COUNTY to terminate this IA, to pursue and recover any and all damages that arise from the breach and the termination of this IA, and to pursue any or all of the remedies available under this IA, at law, or in equity, including but not limited to:

1. Termination of this IA, in whole or in part;
2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to AGENCY, in an amount equal to COUNTY'S setoff right, without penalty; and
3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of AGENCY'S breach of this IA, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

- B. Background Checks. Criminal Background checks are required for direct service staff funded through this contract.
- C. Mandatory Reporting. Mandatory reporting is required for direct service staff funded through this contract.
- D. Precedence. When a requirement is listed both in the main boilerplate of the IA and in an Exhibit, the Exhibit shall take precedence.
- E. Subcontracts. AGENCY shall not enter into any subcontracts for any of the work scheduled under this IA without obtaining prior written approval from COUNTY.
- F. Independent Contractor. AGENCY certifies that it is an independent contractor and not an employee or agent of Clackamas County, State or Oregon or Federal government. AGENCY is not an officer, employee or agent of Clackamas County as those terms are used in ORS 30.265. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.
- G. Tax Laws. AGENCY represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this IA, has faithfully complied with:

1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
2. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, to AGENCY'S property, operations, receipts, or income, or to AGENCY'S performance of or compensation for any work performed by AGENCY;
3. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, or to goods, services, or property, whether tangible or intangible, provided by AGENCY; and
4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

#### IV. GENERAL CONDITIONS

- A. Indemnification. AGENCY agrees to indemnify, save, hold harmless, and defend COUNTY and its officers, elected officials, commissioners, agents, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demands attributable in whole or in part to the acts or omissions of AGENCY, and AGENCY's officers, agents and employees, in performance of this IA.

If AGENCY is a public body, AGENCY's liability under this IA is subject to the limitations of the Oregon Tort Claims Act.

B. Insurance.

1. Commercial General Liability Insurance

- Required by COUNTY       Not required by COUNTY

AGENCY shall obtain, at AGENCY's expense, and keep in effect during the term of this IA, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$3,000,000 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 IA. 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 Insurance

- Required by COUNTY       Not required by COUNTY

AGENCY shall also obtain, at AGENCY's expense, and keep in effect during the term of the IA, "Symbol 1" 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 \$3,000,000.

3. Professional Liability Insurance

- Required by COUNTY       Not required by COUNTY

AGENCY agrees to furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/ \$3,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of 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 IA. COUNTY, at its option, may require a complete copy of the above policy.



4. Physical Abuse and Molestation Insurance Coverage. Abuse and molestation insurance in a form and with coverage that are satisfactory to the Agency covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee is responsible including but not limited to grantee and Grantee's employees and volunteers. Policy endorsement's definition of an insured shall include the Grantee, and the Grantee's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individual, and irrespective of the number of incidents or injuries or the time period or are over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.
5. Excess/Umbrella Insurance. A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.
6. 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 AGENCY is a subject employer, as defined in ORS 656.023, AGENCY shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.
7. Tail Coverage. If liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this IA for a duration of thirty-six (36) months or the maximum time period the AGENCY's insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the IA completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this IA.
8. Additional Insured Provisions. The insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its agents, officers, elected officials, and employees" as an additional insured, as well as the "State of Oregon, its officers, employees and agents", but only with respect to AGENCY's activities under this agreement.
9. 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 COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 days' notice of cancellation provision shall be physically endorsed on to the policy.
10. Insurance Carrier Rating. Coverages provided by AGENCY 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.
11. Certificates of Insurance. As evidence of the insurance coverage required by this IA, AGENCY shall furnish a Certificate of Insurance to county. No IA 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. The certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance.
12. Primary Coverage Clarification. AGENCY's 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.

13. Cross-Liability Clause. A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, and errors and omissions policies required by this IA.
  14. Waiver of Subrogation. AGENCY agrees to waive their rights of subrogation arising from the work performed under this agreement.
- C. Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this agreement consents to the in personam jurisdiction of said courts.
  - D. Amendments. The terms of this IA shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by AGENCY and COUNTY.
  - E. 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 or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.
  - F. Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.
  - G. Future Support. COUNTY makes no commitment of future support and assumes no obligation for future support for the activity IAed herein except as set forth in this agreement.
  - H. Oregon Constitutional Limitations. This IA 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 provision herein, which would conflict with such law, is deemed inoperative to that extent.
  - I. Oregon Public Contracting Requirements. Pursuant to the requirements of ORS 279B.020 and ORS 279B.220 through 279B.235 the following terms and conditions are made a part of this IA:
    1. AGENCY shall:
      - a. make payments promptly, as due, to all persons supplying to AGENCY labor or materials for the prosecution of the work provided for in this IA.
      - b. pay all contributions or amounts due the Industrial Accident Fund from such agency or subcontractor incurred in performance of this IA.
      - c. not permit any lien or claim to be filed or prosecuted against COUNTY on account of any labor or material furnished.
      - d. pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
    2. If AGENCY fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to AGENCY or a subcontractor by any person in connection with this IA as such claim becomes due, the proper officer representing 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 AGENCY by reason of this IA.
    3. No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay:

- a. for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday;
  - b. for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
  - c. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
4. AGENCY shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under person services IAs who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.
  5. As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all moneys and sums that AGENCY collected or deducted from the wages of its employees under any law, IA or agreement for the purpose of providing or paying for the services.
  6. **Workers' Compensation.** All subject employers working under this agreement must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an exemption under ORS 656.126.
- J. Ownership of Work Product. All work products of the AGENCY which result from this IA are the exclusive property of COUNTY.
- K. Integration. This IA contains the entire agreement between COUNTY and AGENCY and supersedes all prior written or oral discussions or agreements.
- L. Successors in Interest. The provisions of this IA shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

#### V. TERMINATION

- A. Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon thirty (30) business days' notice, in writing and delivered by certified mail or in person.
- B. Termination With Cause. COUNTY, by written notice of default (including breach of IA) to AGENCY, may terminate this agreement effective upon delivery of written notice to AGENCY, or at such later date as may be established by COUNTY, under any of the following conditions:
1. If COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services, the IA may be modified to accommodate a reduction in funds.
  2. If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this IA or are no longer eligible for the funding authorized by this agreement.
  3. If any license or certificate required by law or regulation to be held by AGENCY to provide the services required by this agreement is for any reason denied, revoked, or not renewed.
  4. If AGENCY fails to provide services, outcomes, reports as specified by COUNTY in this agreement.
  5. If AGENCY fails to perform any of the other provisions of this IA, or so fails to pursue the work as to endanger performance of this IA in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within 10 days or such longer period as COUNTY may authorize.




This IA consists of five (5) sections plus the following attachments which by this reference are incorporated herein:

- Exhibit A-1: Statement of Program Objectives
- Exhibit A-2: Performance Reporting Schedule and Work Plan Quarterly Report
- Exhibit A-3: Client Feedback Survey and Report
- Exhibit A-4: Quarterly Demographic Report
- Exhibit B: Program Budget
- Exhibit C-1: Financial Report and Request for Reimbursement
- Exhibit C-2: Monthly Activity Report
- Exhibit D: Special and Standard Terms and Conditions
- Exhibit E: FCCN Program Requirements

**AGENCY**

Clackamas Education Service District  
13455 SE 97<sup>th</sup> Ave.  
Clackamas, OR 97015

By:   
\_\_\_\_\_  
Jada Rupley, Superintendent

Date: 1-2-18

DUNS: 096253976

EIN: 93-6000229

**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

Date: \_\_\_\_\_

  
\_\_\_\_\_  
Rodney A. Cook, Director  
Children, Youth & Families Division

Date: 1-3-18



January 18, 2018

Board of Commissioners  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with  
Clackamas Education Service District  
for Kindergarten Partnership and Innovation Services

<b>Purpose/Outcomes</b>	Services include instruction and technical assistance to early learning providers, families, and children to develop skills that promote children’s early learning, social emotional development, and readiness for kindergarten, and to connect families to early learning resources and supports.
<b>Dollar Amount and Fiscal Impact</b>	\$85,000 No fiscal impact to the County. No County General funds are involved.
<b>Funding Source</b>	Oregon Department of Education – Early Learning Division
<b>Duration</b>	October 1, 2017 – September 30, 2019
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Individuals and families in need are healthy and safe</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Rodney A. Cook 503-650-5677
<b>Contract No.</b>	CYF 8590

**BACKGROUND:**

Children, Youth & Families Division of the Health, Housing and Human Services Department requests approval of an Intergovernmental Agreement with Clackamas Education Service District to provide kindergarten readiness services and supports to early learning providers, families and their preschool aged children in Canby and Molalla areas. Approximately 125 early childhood service providers, 40 parents/caregivers, and 50 preschool aged children will be served.

There are no county general funds involved in this Agreement and it has been reviewed and approved by County Counsel on December 27, 2017. It becomes effective upon signature by all parties for services starting October 1, 2017 and terminates September 30, 2019. It has a maximum value of \$85,000. This contract is retroactive due to County Finance requiring the contract be changed from Subrecipient agreement to agency services contracts.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services

*Healthy Families. Strong Communities.*

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
CLACKAMAS EDUCATION SERVICE DISTRICT  
AND  
CLACKAMAS COUNTY CHILDREN, YOUTH & FAMILIES DIVISION**

**Contract # 8590**

This Agreement is entered into by and between Clackamas County, acting by and through its department of Health, Housing, & Human Services, Children, Youth & Families Division (H3S-CYF), hereinafter called "COUNTY" and Clackamas Education Service District (CESD), hereinafter called "AGENCY". This Agreement is effective upon signature by all parties for services starting October 1, 2017 and terminating September 30, 2019.

**RECITALS**

WHEREAS, CESD and H3S-CYF are units of local government, as that term is defined in ORS 190.003; and,

WHEREAS, ORS 190.010 provides that units of local government may enter into written agreements for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have authority to perform. The statute also provides that the agreement may provide for the performance of a function or activity as further set forth in the statute.

**I. PURPOSE OF INTERGOVERNMENTAL AGREEMENT (IA).**

AGENCY agrees to accomplish the following work under this Agreement:

Implement Early Learning Cafés to strengthen connections between early learning service providers, kindergarten teachers, and underserved families with children ages 0-6 years, and supported play groups to promote child social emotional development and improve readiness for and transition to kindergarten in areas of Clackamas County as outlined in *Exhibit A-1: Statement of Program Objectives, Exhibit A-2 Performance Reporting Schedule and Work Plan Quarterly Report, Exhibit A-3 Client Feedback Survey and Report, and Exhibit A-4: Quarterly Demographic Report*, attached hereto.

**II. COMPENSATION AND RECORDS**

A. Compensation. COUNTY shall compensate the AGENCY for satisfactorily performing the services identified in Section I: Scope of Services. AGENCY use of funds may not exceed the amount specified in *Exhibit B: Program Budget*, attached hereto. AGENCY may not transfer funds between budget lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of this agreement.

Total maximum compensation under this agreement shall not exceed **\$85,000**, broken down by fiscal year as follows:

- FY 10/1/2017 – 6/30/2018 \$44,500
- FY 7/1/2018 – 6/30/2019 \$33,000
- FY 7/1/2019 – 9/30/2019 \$ 7,500

Payment shall be made on a cost reimbursement basis and disbursements will be made monthly in accordance with the requirements outlined in *Exhibit C-1: Financial Report and Request for Reimbursement*, attached hereto and incorporated herein.

B. Method of Payment. To receive payment, AGENCY shall submit monthly requests for reimbursement and required documentation as outlined in *Exhibit C-1: Financial Report and Request for Reimbursement* and *Exhibit C-2: Monthly Activity Report*.

Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should AGENCY fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for causes may continue until AGENCY submits required reports, performs required services, or establishes COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

- C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this contract and all other pending matters are closed.
- D. Access to Records. COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of AGENCY which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcripts.

If an audit discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, then AGENCY shall repay the amount of the excess to COUNTY.

### III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations, and Special Federal Requirements. AGENCY shall comply with all Federal and State regulations and laws, Oregon Administrative Rules, local laws and ordinances applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in *Exhibit D: Special and Standard Conditions* and *Exhibit E: Kindergarten Partnership and Innovation Program Requirements.*, attached hereto and incorporated herein. AGENCY must, throughout the duration of this contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this contract. Further, any violation of AGENCY'S warranty, in this contract that AGENCY has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle COUNTY to terminate this contract, to pursue and recover any and all damages that arise from the breach and the termination of this contract, and to pursue any or all of the remedies available under this contract, at law, or in equity, including but not limited to:
  - 1. Termination of this contract, in whole or in part;
  - 2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to AGENCY, in an amount equal to COUNTY'S setoff right, without penalty; and
  - 3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of AGENCY'S breach of this contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

- B. Background Checks. Criminal Background checks are required for direct service staff funded through this agreement.
- C. Mandatory Reporting. Mandatory reporting is required for direct service staff funded through this agreement.

- D. Precedence. When a requirement is listed both in the main boilerplate of the agreement and in an Exhibit, the Exhibit shall take precedence.
- E. Subcontracts. AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from COUNTY.
- F. Independent Contractor. AGENCY certifies that it is an independent contractor and not an employee or agent of Clackamas County, State or Oregon or Federal government. AGENCY is not an officer, employee or agent of Clackamas County as those terms are used in ORS 30.265. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.
- G. Tax Laws. AGENCY represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:
  - 1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
  - 2. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, to AGENCY'S property, operations, receipts, or income, or to AGENCY'S performance of or compensation for any work performed by AGENCY;
  - 3. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, or to goods, services, or property, whether tangible or intangible, provided by AGENCY; and
  - 4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

#### IV. GENERAL CONDITIONS

- A. Indemnification. AGENCY agrees to indemnify, save, hold harmless, and defend COUNTY and its officers, elected officials, commissioners, agents, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demands attributable in whole or in part to the acts or omissions of AGENCY, and AGENCY's officers, agents and employees, in performance of this contract.

If AGENCY is a public body, AGENCY's liability under this contract is subject to the limitations of the Oregon Tort Claims Act.

- B. Insurance.

- 1. Commercial General Liability Insurance

Required by COUNTY       Not required by COUNTY

AGENCY shall obtain, at AGENCY's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$3,000,000 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 contract. 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 Insurance

Required by COUNTY       Not required by COUNTY



AGENCY shall also obtain, at AGENCY's expense, and keep in effect during the term of the contract, "Symbol 1" 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 \$3,000,000.

3. Professional Liability Insurance

Required by COUNTY       Not required by COUNTY

AGENCY agrees to furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/ \$3,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of 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 contract. COUNTY, at its option, may require a complete copy of the above policy.

4. Physical Abuse and Molestation Insurance Coverage. Abuse and molestation Insurance in a form and with coverage that are satisfactory to the Agency covering damages arising out of actual or threatened physical abuse, metal injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee is responsible including but not limited to grantee and Grantee's employees and volunteers. Policy endorsement's definition of an insured shall include the Grantee, and the Grantee's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individual, and irrespective of the number of incidents or injuries or the time period or are over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.
5. Excess/Umbrella Insurance. A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.
6. 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.
7. Tail Coverage. If liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the AGENCY's insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this contract.
8. Additional Insured Provisions. The insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its agents, officers, elected officials, and employees" as an additional insured, as well as the "State of Oregon, its officers, employees and agents", but only with respect to AGENCY's activities under this agreement.

9. 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 COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 days' notice of cancellation provision shall be physically endorsed on to the policy.
  10. Insurance Carrier Rating. Coverages provided by AGENCY 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.
  11. Certificates of Insurance. As evidence of the insurance coverage required by this contract, AGENCY shall furnish a Certificate of Insurance to county. No contract shall be in effect until the required certificates have been received, approved and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration. The certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance.
  12. Primary Coverage Clarification. AGENCY's 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.
  13. Cross-Liability Clause. A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, and errors and omissions policies required by this contract.
  14. Waiver of Subrogation. AGENCY agrees to waive their rights of subrogation arising from the work performed under this agreement.
- C. Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this agreement consents to the in personam jurisdiction of said courts.
- D. Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by AGENCY and COUNTY.
- E. 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 or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.
- F. Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.
- G. 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.

- H. Oregon Constitutional Limitations. 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 provision herein, which would conflict with such law, is deemed inoperative to that extent.
- I. Oregon Public Contracting Requirements. Pursuant to the requirements of ORS 279B.020 and ORS 279B.220 through 279B.235 the following terms and conditions are made a part of this contract:
1. AGENCY shall:
    - a. make payments promptly, as due, to all persons supplying to AGENCY labor or materials for the prosecution of the work provided for in this contract.
    - b. pay all contributions or amounts due the Industrial Accident Fund from such agency or subcontractor incurred in performance of this 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 to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
  2. If AGENCY fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to AGENCY or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing 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 AGENCY by reason of this contract.
  3. No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay:
    - a. for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday;
    - b. for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
    - c. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
  4. AGENCY shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under person services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.
  5. As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all moneys and sums that AGENCY collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.
  6. Workers' Compensation. All subject employers working under this agreement must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an exemption under ORS 656.126.

- J. Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of COUNTY.
- K. Integration. This contract contains the entire agreement between COUNTY and AGENCY and supersedes all prior written or oral discussions or agreements.
- L. Successors in Interest. The provisions of this contract shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

#### V. TERMINATION

- A. Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon thirty (30) business days' notice, in writing and delivered by certified mail or in person.
- B. Termination With Cause. COUNTY, by written notice of default (including breach of contract) to AGENCY, may terminate this agreement effective upon delivery of written notice to AGENCY, or at such later date as may be established by COUNTY, under any of the following conditions:
  - 1. If COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services, the contract may be modified to accommodate a reduction in funds.
  - 2. If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this agreement.
  - 3. If any license or certificate required by law or regulation to be held by AGENCY to provide the services required by this agreement is for any reason denied, revoked, or not renewed.
  - 4. If AGENCY fails to provide services, outcomes, reports as specified by COUNTY in this agreement.
  - 5. If AGENCY fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within 10 days or such longer period as COUNTY may authorize.



This IA consists of five (5) sections plus the following attachments which by this reference are incorporated herein:

- Exhibit A-1: Statement of Program Objectives
- Exhibit A-2: Performance Reporting Schedule and Work Plan Quarterly Report
- Exhibit A-3: Client Feedback Survey and Report
- Exhibit A-4: Quarterly Demographic Report
- Exhibit B: Program Budget
- Exhibit C-1: Financial Report and Request for Reimbursement
- Exhibit C-2: Monthly Activity Report
- Exhibit D: Special and Standard Terms and Conditions
- Exhibit E: KPI Program Requirements

**AGENCY**

Clackamas Education Service District  
13455 SE 97<sup>th</sup> Ave.  
Clackamas, OR 97015

By:   
Jada Rupley, Superintendent

Date: 1-2-18

DUNS: 096253976

EIN: 93-6000229

**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

Date: \_\_\_\_\_

  
Rodney A. Cook, Director  
Children, Youth & Families Division

Date: 1-3-18

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Agency Service Contract with Metropolitan Family Service for  
Family Resource Coordination

<b>Purpose/Outcomes</b>	FRCs connect families to needed resources and services, including schools, family advocates, home visitors, early childhood specialists, behavioral health services, employment specialists, pediatricians, etc. and complete appropriate early childhood screens and assessments.
<b>Dollar Amount and Fiscal Impact</b>	\$238,482 No County General Funds are involved and no match requirement
<b>Funding Source</b>	Oregon Department of Education Early Learning Division
<b>Duration</b>	October 1, 2017 through September 30, 2019
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Individuals and families in need are healthy and safe</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Rodney A. Cook 503-650-5677
<b>Contract No.</b>	CYF 8568

**BACKGROUND:**

Children, Youth & Families Division of the Health, Housing & Human Services Department requests approval of an Agency Service Contract with Metropolitan Family Service to identify early learning resources and services and to coordinate the delivery of those resources and services to children ages 0-6 and their families to achieve outcomes related to kindergarten readiness, stable and attached families and early learning system coordination.

This contract has a maximum value of \$238,482 and there are no County General Funds involved. It has been reviewed and approved by County Counsel and becomes effective upon signature by all parties for services starting October 1, 2017 and terminating September 30, 2019. This contract is retroactive due to County Finance requiring the contract be changed from Subrecipient agreement to agency services contracts.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services

## AGENCY SERVICE CONTRACT

### Contract # 8568

This contract is between Clackamas County, acting by and through its department of Health, Housing, & Human Services, Children, Youth & Families Division, hereinafter called "COUNTY," and Metropolitan Family Service, Inc., hereinafter called "AGENCY."

#### I. SCOPE OF SERVICES

- A. AGENCY agrees to accomplish the following work under this contract:

Family Resource Coordinators (FRCs) work with families with children ages 0 to 6 to help them navigate health, education, and other human service systems to get the assistance and resources they need to be successful. Additionally, the FRCs will follow up with families and providers to ensure that the families have successfully accessed the services and that the services have effectively met their needs for stability, health, and school readiness. The work will take place in the North Clackamas areas of Clackamas County as outlined in *Exhibit A-1: Statement of Program Objectives, Exhibit A-2 Performance Reporting Schedule and Work Plan Quarterly Report, Exhibit A-3 Client Feedback Survey and Report, and Exhibit A-4: Quarterly Demographic Report*, attached hereto.

- B. This agreement becomes effective upon signature by all parties for services starting October 1, 2017 and shall terminate September 30, 2019.

#### II. COMPENSATION AND RECORDS

- A. Compensation. COUNTY shall compensate the AGENCY for satisfactorily performing the services identified in Section I: Scope of Services. AGENCY use of funds may not exceed the amount specified in *Exhibit B: Program Budget*, attached hereto. AGENCY may not transfer funds between budget lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of this agreement.

Total maximum compensation under this contract shall not exceed **\$238,482**, broken down by fiscal year as follows:

- FY 10/1/2017 – 6/30/2018 \$ 89,429
- FY 7/1/2018 – 6/30/2019 \$119,241
- FY 7/1/2019 – 9/30/2019 \$ 29,812

Payment shall be made on a cost reimbursement basis and disbursements will be made monthly in accordance with the requirements outlined in *Exhibit C-1: Financial Report and Request for Reimbursement*, attached hereto and incorporated herein.

- B. Method of Payment. To receive payment, AGENCY shall submit monthly requests for reimbursement and required documentation as outlined in *Exhibit C-1: Financial Report and Request for Reimbursement* and *Exhibit C-2: Monthly Activity Report*.

Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should AGENCY fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for causes may continue until AGENCY submits required reports, performs required services, or establishes COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

- C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this contract and all other pending matters are closed.
- D. Access to Records. COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of AGENCY which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcripts.

If an audit discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, then AGENCY shall repay the amount of the excess to COUNTY.

### III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations, and Special Federal Requirements. AGENCY shall comply with all Federal and State regulations and laws, Oregon Administrative Rules, local laws and ordinances applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in *Exhibit D: Special and Standard Terms and Conditions*, and *Exhibit E: Healthy, Stable, and Attached Families Program Requirements*, attached hereto and incorporated herein. AGENCY must, throughout the duration of this contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this contract. Further, any violation of AGENCY'S warranty, in this contract that AGENCY has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle COUNTY to terminate this contract, to pursue and recover any and all damages that arise from the breach and the termination of this contract, and to pursue any or all of the remedies available under this contract, at law, or in equity, including but not limited to:
  - 1. Termination of this contract, in whole or in part;
  - 2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to AGENCY, in an amount equal to COUNTY'S setoff right, without penalty; and
  - 3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of AGENCY'S breach of this contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

- B. Background Checks. Criminal Background checks are required for all direct service staff paid with ODE ELD funding.
- C. Mandatory Reporting. Mandatory reporting is required for direct service staff funded through this contract.
- D. Precedence. When a requirement is listed both in the main boilerplate of the contract and in an Exhibit, the Exhibit shall take precedence.
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- G. Tax Laws. AGENCY represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:
1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
  2. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, to AGENCY'S property, operations, receipts, or income, or to AGENCY'S performance of or compensation for any work performed by AGENCY;
  3. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, or to goods, services, or property, whether tangible or intangible, provided by AGENCY; and
  4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

#### IV. GENERAL CONDITIONS

- A. Indemnification. AGENCY agrees to indemnify, save, hold harmless, and defend COUNTY and its officers, elected officials, commissioners, agents, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demands attributable in whole or in part to the acts or omissions of AGENCY, and AGENCY's officers, agents and employees, in performance of this contract.

If AGENCY is a public body, AGENCY's liability under this contract is subject to the limitations of the Oregon Tort Claims Act.

- B. Insurance.

1. Commercial General Liability Insurance

Required by COUNTY       Not required by COUNTY

AGENCY shall obtain, at AGENCY's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$3,000,000 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 contract. 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.

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AGENCY shall also obtain, at AGENCY's expense, and keep in effect during the term of the contract, "Symbol 1" 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 \$3,000,000.

3. Professional Liability Insurance

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AGENCY agrees to furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/ \$3,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of 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 contract. COUNTY, at its option, may require a complete copy of the above policy.

4. Physical Abuse and Molestation Insurance Coverage. Abuse and molestation Insurance in a form and with coverage that are satisfactory to the Agency covering damages arising out of actual or threatened physical abuse, metal injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee is responsible including but not limited to grantee and Grantee's employees and volunteers. Policy endorsement's definition of an insured shall include the Grantee, and the Grantee's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individual, and irrespective of the number of incidents or injuries or the time period or are over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.
5. Excess/Umbrella Insurance. A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.
6. 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.
7. Tail Coverage. If liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the AGENCY's insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this contract.
8. Additional Insured Provisions. The insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its agents, officers, elected officials, and employees" as an additional insured, as well as the "State of Oregon, its officers, employees and agents", but only with respect to AGENCY's activities under this agreement.

9. 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 COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 days' notice of cancellation provision shall be physically endorsed on to the policy.
  10. Insurance Carrier Rating. Coverages provided by AGENCY 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.
  11. Certificates of Insurance. As evidence of the insurance coverage required by this contract, AGENCY shall furnish a Certificate of Insurance to county. No contract shall be in effect until the required certificates have been received, approved and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration. The certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance.
  12. Primary Coverage Clarification. AGENCY's 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.
  13. Cross-Liability Clause. A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, and errors and omissions policies required by this contract.
  14. Waiver of Subrogation. AGENCY agrees to waive their rights of subrogation arising from the work performed under this agreement.
- C. Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this agreement consents to the in personam jurisdiction of said courts.
- D. Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by AGENCY and COUNTY.
- E. 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 or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.
- F. Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.
- G. 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.

- H. Oregon Constitutional Limitations. 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 provision herein, which would conflict with such law, is deemed inoperative to that extent.
- I. Oregon Public Contracting Requirements. Pursuant to the requirements of ORS 279B.020 and ORS 279B.220 through 279B.235 the following terms and conditions are made a part of this contract:
1. AGENCY shall:
    - a. make payments promptly, as due, to all persons supplying to AGENCY labor or materials for the prosecution of the work provided for in this contract.
    - b. pay all contributions or amounts due the Industrial Accident Fund from such agency or subcontractor incurred in performance of this 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 to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
  2. If AGENCY fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to AGENCY or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing 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 AGENCY by reason of this contract.
  3. No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay:
    - a. for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday;
    - b. for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
    - c. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
  4. AGENCY shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under person services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.
  5. As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all moneys and sums that AGENCY collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.



- 6. Workers' Compensation. All subject employers working under this agreement must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an exemption under ORS 656.126.
- J. Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of COUNTY.
- K. Integration. This contract contains the entire agreement between COUNTY and AGENCY and supersedes all prior written or oral discussions or agreements.
- L. Successors in Interest. The provisions of this contract shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

V. TERMINATION

- A. Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon thirty (30) business days' notice, in writing and delivered by certified mail or in person.
- B. Termination With Cause. COUNTY, by written notice of default (including breach of contract) to AGENCY, may terminate this agreement effective upon delivery of written notice to AGENCY, or at such later date as may be established by COUNTY, under any of the following conditions:
  - 1. If COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services, the contract may be modified to accommodate a reduction in funds.
  - 2. If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this agreement.
  - 3. If any license or certificate required by law or regulation to be held by AGENCY to provide the services required by this agreement is for any reason denied, revoked, or not renewed.
  - 4. If AGENCY fails to provide services, outcomes, reports as specified by COUNTY in this agreement.
  - 5. If AGENCY fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within 10 days or such longer period as COUNTY may authorize.

This contract consists of five (5) sections plus the following attachments which by this reference are incorporated herein:

- Exhibit A-1: Statement of Program Objectives
- Exhibit A-2: Performance Reporting Schedule and Work Plan Quarterly Report
- Exhibit A-3: Client Feedback Survey and Report
- Exhibit A-4: Quarterly Demographic Report
- Exhibit B: Program Budget
- Exhibit C-1: Financial Report and Request for Reimbursement
- Exhibit C-2: Monthly Activity Report
- Exhibit D: Standard and Special Terms and Conditions
- Exhibit E: Healthy, Stable, and Attached Families Program Requirements

**AGENCY**

Metropolitan Family Service  
1808 SE Belmont  
Portland, OR 97214

**CLACKAMAS COUNTY**

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

**Signing on Behalf of the Board:**

By:   
Judy Strand, Executive Director

Richard Swift, Director  
Health, Housing and Human Services

Date: 1/8/18

Date: \_\_\_\_\_

DUNS: 088598081

EIN: 930397825

  
Rodney A. Cook, Director  
Children, Youth & Families Division

Date: 1-9-18

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Agency Service Contract with Metropolitan Family Service for  
Kindergarten Partnership Innovation Services

<b>Purpose/Outcomes</b>	Programming includes kindergarten readiness activities and social emotional support for preschool aged children and their families, as well as technical support and resources for early childhood service providers
<b>Dollar Amount and Fiscal Impact</b>	\$121,016 No fiscal impact to the County and no County General Funds are involved
<b>Funding Source</b>	Oregon Department of Education – Early Learning Division
<b>Duration</b>	October 1, 2017 through September 30, 2019
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Individuals and families in need are healthy and safe</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Rodney A. Cook 503-650-5677
<b>Contract No.</b>	CYF 8630

**BACKGROUND:**

Children, Youth & Families Division of the Health, Housing and Human Services Department requests approval of Agency Service Contract with Metropolitan Family Service to provide kindergarten readiness activities, literacy and social emotional support to preschool and kindergarten students, supports to families to promote ability to support their child's early learning and school readiness, and intensive support to kindergarten students identified as at-risk/high risk.

This contract has a maximum value of \$121,016. No County General funds are involved and no match is required. It has been reviewed and approved by County Counsel and becomes effective upon signature by all parties for services starting October 1, 2017 and terminating September 30, 2019. This contract is retroactive due to County Finance requiring the contract be changed from Subrecipient agreement to agency services contracts.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services

## AGENCY SERVICE CONTRACT

### Contract # 8630

This contract is between Clackamas County, acting by and through its department of Health, Housing, & Human Services, Children, Youth & Families Division, hereinafter called "COUNTY," and Metropolitan Family Service, Inc., hereinafter called "AGENCY."

#### I. SCOPE OF SERVICES

- A. AGENCY agrees to accomplish the following work under this contract:

Implement Kindergarten Connections workshops, Jumpstart to Kindergarten programming and parent education at 8 elementary schools in the North Clackamas area of Clackamas County, and intensive services and supports for families with children experiencing behavioral challenges. The services listed above will be conducted as outlined in *Exhibit A-1: Statement of Program Objectives, Exhibit A-2 Performance Reporting Schedule and Work Plan Quarterly Report, Exhibit A-3 Client Feedback Survey and Report, and Exhibit A-4: Quarterly Demographic Report*, attached hereto.

- B. This agreement becomes effective upon signature by all parties for services starting October 1, 2017 and shall terminate September 30, 2019.

#### II. COMPENSATION AND RECORDS

- A. Compensation. COUNTY shall compensate the AGENCY for satisfactorily performing the services identified in Section I: Scope of Services. AGENCY use of funds may not exceed the amount specified in *Exhibit B: Program Budget*, attached hereto. AGENCY may not transfer funds between budget lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of this agreement.

Total maximum compensation under this contract shall not exceed **\$121,016**, broken down by fiscal year as follows:

• FY 10/1/2017 – 6/30/2018	\$39,643
• FY 7/1/2018 – 6/30/2019	\$65,099
• FY 7/1/2019 – 9/30/2019	\$16,274

Payment shall be made on a cost reimbursement basis and disbursements will be made monthly in accordance with the requirements outlined in *Exhibit C-1: Financial Report and Request for Reimbursement*, attached hereto and incorporated herein.

- B. Method of Payment. To receive payment, AGENCY shall submit monthly requests for reimbursement and required documentation as outlined in *Exhibit C-1: Financial Report and Request for Reimbursement* and *Exhibit C-2: Monthly Activity Report*.

Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should AGENCY fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for causes may continue until AGENCY submits required reports, performs required services, or establishes COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

- C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should

be retained for a period of three (3) years after receipt of final payment under this contract and all other pending matters are closed.

- D. Access to Records. COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of AGENCY which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcripts.

If an audit discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, then AGENCY shall repay the amount of the excess to COUNTY.

### III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations, and Special Federal Requirements. AGENCY shall comply with all Federal and State regulations and laws, Oregon Administrative Rules, local laws and ordinances applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in *Exhibit D: Special and Standard Terms and Conditions* and *Exhibit E: Kindergarten Partnership and Innovation Program Requirements*, attached hereto and incorporated herein. AGENCY must, throughout the duration of this contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this contract. Further, any violation of AGENCY'S warranty, in this contract that AGENCY has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle COUNTY to terminate this contract, to pursue and recover any and all damages that arise from the breach and the termination of this contract, and to pursue any or all of the remedies available under this contract, at law, or in equity, including but not limited to:

1. Termination of this contract, in whole or in part;
2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to AGENCY, in an amount equal to COUNTY'S setoff right, without penalty; and
3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of AGENCY'S breach of this contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

- B. Background Checks. Criminal Background checks are required for direct service staff funded through this contract.
- C. Mandatory Reporting. Mandatory reporting is required for direct service staff funded through this contract.
- D. Precedence. When a requirement is listed both in the main boilerplate of the contract and in an Exhibit, the Exhibit shall take precedence.
- E. Subcontracts. AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from COUNTY.
- F. Independent Contractor. AGENCY certifies that it is an independent contractor and not an employee or agent of Clackamas County, State or Oregon or Federal government. AGENCY is not an officer, employee or agent of Clackamas County as those terms are used in ORS 30.265. Responsibility for



all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.

G. Tax Laws. AGENCY represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
2. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, to AGENCY'S property, operations, receipts, or income, or to AGENCY'S performance of or compensation for any work performed by AGENCY;
3. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, or to goods, services, or property, whether tangible or intangible, provided by AGENCY; and
4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

#### IV. GENERAL CONDITIONS

A. Indemnification. AGENCY agrees to indemnify, save, hold harmless, and defend COUNTY and its officers, elected officials, commissioners, agents, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demands attributable in whole or in part to the acts or omissions of AGENCY, and AGENCY's officers, agents and employees, in performance of this contract.

If AGENCY is a public body, AGENCY's liability under this contract is subject to the limitations of the Oregon Tort Claims Act.

B. Insurance.

1. Commercial General Liability Insurance

Required by COUNTY       Not required by COUNTY

AGENCY shall obtain, at AGENCY's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$3,000,000 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 contract. 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 Insurance

Required by COUNTY       Not required by COUNTY

AGENCY shall also obtain, at AGENCY's expense, and keep in effect during the term of the contract, "Symbol 1" 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 \$3,000,000.

3. Professional Liability Insurance

Required by COUNTY       Not required by COUNTY

AGENCY agrees to furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/ \$3,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of 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 contract. COUNTY, at its option, may require a complete copy of the above policy.

4. Physical Abuse and Molestation Insurance Coverage. Abuse and molestation Insurance in a form and with coverage that are satisfactory to the Agency covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee is responsible including but not limited to grantee and Grantee's employees and volunteers. Policy endorsement's definition of an insured shall include the Grantee, and the Grantee's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individual, and irrespective of the number of incidents or injuries or the time period or are over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.
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  3. No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay:
    - a. for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday;
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  - 2. If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this agreement.
  - 3. If any license or certificate required by law or regulation to be held by AGENCY to provide the services required by this agreement is for any reason denied, revoked, or not renewed.
  - 4. If AGENCY fails to provide services, outcomes, reports as specified by COUNTY in this agreement.
  - 5. If AGENCY fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within 10 days or such longer period as COUNTY may authorize.

This Agreement consists of five (5) sections plus the following attachments which by this reference are incorporated herein:

- Exhibit A-1: Statement of Program Objectives
- Exhibit A-2: Performance Reporting Schedule and Work Plan Quarterly Report
- Exhibit A-3: Client Feedback Survey and Report
- Exhibit A-4: Quarterly Demographic Report
- Exhibit B: Program Budget
- Exhibit C-1: Financial Report and Request for Reimbursement
- Exhibit C-2: Monthly Activity Report
- Exhibit D: Special and Standard Terms and Conditions
- Exhibit E: KPI Program Requirements

**AGENCY**

Metropolitan Family Service, Inc.  
1808 SE Belmont  
Portland, OR 97214

By:   
Judy Strand, Executive Director

Date: 1/8/18

DUNS: 088598081

EIN: 930397825

**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

Date: \_\_\_\_\_

  
Redney A. Cook, Director  
Children, Youth & Families Division

Date: 1-9-18

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Agency Service Contract with Northwest Family Services for  
Family Resource Coordination

<b>Purpose/Outcomes</b>	Family Resource Coordinators (FRCs) connect families to needed resources and services, including schools, family advocates, home visitors, early childhood specialists, behavioral health services, employment specialists, pediatricians, etc. and complete appropriate early childhood screens and assessments.
<b>Dollar Amount and Fiscal Impact</b>	\$180,000 No impact to the County and no match requirement
<b>Funding Source</b>	Oregon Department of Education Early Learning Division
<b>Duration</b>	October 1, 2017 through September 30, 2019
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Individuals and families in need are healthy and safe</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Rodney A. Cook 503-650-5677
<b>Contract No.</b>	CYF 8565

**BACKGROUND:**

Children, Youth & Families Division of the Health, Housing & Human Services Department requests approval of an Agency Service Contract with Northwest Family Services to identify early learning resources and services and to coordinate the delivery of those resources and services to children ages 0-6 and their families to achieve outcomes related to kindergarten readiness, stable and attached families and early learning system coordination.

This contract has a maximum value of \$180,000 and there are no County general funds involved. It has been reviewed and approved by County Counsel on Dec 27, 2017. This becomes effective upon signature by all parties for services starting October 1, 2017 and terminating September 30, 2019. This contract is retroactive due to County Finance requiring the contract be changed from Subrecipient agreement to agency services contracts.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services

*Healthy Families. Strong Communities.*



## AGENCY SERVICE CONTRACT

### Contract # 8565

This contract is between Clackamas County, acting by and through its department of Health, Housing, & Human Services, Children, Youth & Families Division, hereinafter called "COUNTY," and **Northwest Family Services**, hereinafter called "AGENCY."

#### I. SCOPE OF SERVICES

A. AGENCY agrees to accomplish the following work under this contract:

Family Resource Coordinators (FRCs) will provide support to families with children ages 0-6 years to help them navigate health, education, and other human services systems to get the assistance and resources they need to be successful. Additionally, the FRCs will follow up with families and providers to ensure that the families have successfully accessed the services and that the services have effectively met their needs for stability, health, and school readiness, and areas of Clackamas County to be served through this agreement include Oregon City/Gladstone, and West Linn/Wilsonville/Lake Oswego, as outlined in *Exhibit A-1: Statement of Program Objectives*, *Exhibit A-2 Performance Reporting Schedule and Work Plan Quarterly Report*, *Exhibit A-3 Client Feedback Survey and Report*, and *Exhibit A-4: Quarterly Demographic Report*, attached hereto.

B. This agreement becomes effective upon signature by all parties for services starting October 1, 2017 and shall terminate September 30, 2019.

#### II. COMPENSATION AND RECORDS

A. Compensation. COUNTY shall compensate the AGENCY for satisfactorily performing the services identified in Section I: Scope of Services. AGENCY use of funds may not exceed the amount specified in *Exhibit B: Program Budget*, attached hereto. AGENCY may not transfer funds between budget lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of this agreement.

Total maximum compensation under this contract shall not exceed **\$180,000**, broken down by fiscal year as follows:

- Fiscal Year 10/1/2017 – 6/30/2018 \$ 67,502
- Fiscal Year 7/1/ 2018 – 6/30/2019 \$ 89,998
- Fiscal Year 7/1/ 2019 – 9/30/2019 \$ 22,500

Payment shall be made on a cost reimbursement basis and disbursements will be made monthly in accordance with the requirements outlined in *Exhibit C-1: Financial Report and Request for Reimbursement*, attached hereto and incorporated herein.

B. Method of Payment. To receive payment, AGENCY shall submit monthly requests for reimbursement and required documentation as outlined in *Exhibit C-1: Financial Report and Request for Reimbursement* and *Exhibit C-2: Monthly Activity Report*.

Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should AGENCY fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for causes may continue until AGENCY submits required reports, performs required services, or establishes COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents



should be retained for a period of three (3) years after receipt of final payment under this contract and all other pending matters are closed.

- D. Access to Records. COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of AGENCY which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcripts.

If an audit discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, then AGENCY shall repay the amount of the excess to COUNTY.

### III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations, and Special Federal Requirements. AGENCY shall comply with all Federal and State regulations and laws, Oregon Administrative Rules, local laws and ordinances applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in *Exhibit D: Special and Standard Terms and Conditions*, and *Exhibit E: Family Support Services Program Requirements and Exhibit F: Healthy, Stable and Attached Families Program Requirements*, attached hereto and incorporated herein. AGENCY must, throughout the duration of this contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this contract. Further, any violation of AGENCY'S warranty, in this contract that AGENCY has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle COUNTY to terminate this contract, to pursue and recover any and all damages that arise from the breach and the termination of this contract, and to pursue any or all of the remedies available under this contract, at law, or in equity, including but not limited to:

1. Termination of this contract, in whole or in part;
2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to AGENCY, in an amount equal to COUNTY'S setoff right, without penalty; and
3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of AGENCY'S breach of this contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

- B. Background Checks. Criminal background checks are required for direct service staff funded through this contract.
- C. Mandatory Reporting. Mandatory reporting is required for direct service staff funded through this contract.
- D. Precedence. When a requirement is listed both in the main boilerplate of the contract and in an Exhibit, the Exhibit shall take precedence.
- E. Subcontracts. AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from COUNTY.
- F. Independent Contractor. AGENCY certifies that it is an independent contractor and not an employee or agent of Clackamas County, State or Oregon or Federal government. AGENCY is not an officer, employee or agent of Clackamas County as those terms are used in ORS 30.265.



Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.

G. Tax Laws. AGENCY represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
2. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, to AGENCY'S property, operations, receipts, or income, or to AGENCY'S performance of or compensation for any work performed by AGENCY;
3. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, or to goods, services, or property, whether tangible or intangible, provided by AGENCY; and
4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

#### IV. GENERAL CONDITIONS

A. Indemnification. AGENCY agrees to indemnify, save, hold harmless, and defend COUNTY and its officers, elected officials, commissioners, agents, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demands attributable in whole or in part to the acts or omissions of AGENCY, and AGENCY's officers, agents and employees, in performance of this contract.

If AGENCY is a public body, AGENCY's liability under this contract is subject to the limitations of the Oregon Tort Claims Act.

B. Insurance.

1. Commercial General Liability Insurance

Required by COUNTY       Not required by COUNTY

AGENCY shall obtain, at AGENCY's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$3,000,000 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 contract. 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 Insurance

Required by COUNTY       Not required by COUNTY

AGENCY shall also obtain, at AGENCY's expense, and keep in effect during the term of the contract, "Symbol 1" 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 \$3,000,000.

3. Professional Liability Insurance

Required by COUNTY       Not required by COUNTY



AGENCY agrees to furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/ \$3,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of 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 contract. COUNTY, at its option, may require a complete copy of the above policy.

4. Physical Abuse and Molestation Insurance Coverage. Abuse and molestation Insurance in a form and with coverage that are satisfactory to the Agency covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee is responsible including but not limited to grantee and Grantee's employees and volunteers. Policy endorsement's definition of an insured shall include the Grantee, and the Grantee's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individual, and irrespective of the number of incidents or injuries or the time period or are over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.
5. Excess/Umbrella Insurance. A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.
6. 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.
7. Tail Coverage. If liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the AGENCY's insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this contract.
8. Additional Insured Provisions. The insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its agents, officers, elected officials, and employees" as an additional insured, as well as the "State of Oregon, its officers, employees and agents", but only with respect to AGENCY's activities under this agreement.
9. 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 COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 days' notice of cancellation provision shall be physically endorsed on to the policy.
10. Insurance Carrier Rating. Coverages provided by AGENCY 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.

11. Certificates of Insurance. As evidence of the insurance coverage required by this contract, AGENCY shall furnish a Certificate of Insurance to county. No contract shall be in effect until the required certificates have been received, approved and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration. The certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance.
  12. Primary Coverage Clarification. AGENCY's 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.
  13. Cross-Liability Clause. A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, and errors and omissions policies required by this contract.
  14. Waiver of Subrogation. AGENCY agrees to waive their rights of subrogation arising from the work performed under this agreement.
- C. Governing Law, Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this agreement consents to the in personam jurisdiction of said courts.
- D. Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by AGENCY and COUNTY.
- E. 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 or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.
- F. Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.
- G. 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.
- H. Oregon Constitutional Limitations. 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 provision herein, which would conflict with such law, is deemed inoperative to that extent.
- I. Oregon Public Contracting Requirements. Pursuant to the requirements of ORS 279B.020 and ORS 279B.220 through 279B.235 the following terms and conditions are made a part of this contract:



1. AGENCY shall:
    - a. make payments promptly, as due, to all persons supplying to AGENCY labor or materials for the prosecution of the work provided for in this contract.
    - b. pay all contributions or amounts due the Industrial Accident Fund from such agency or subcontractor incurred in performance of this 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 to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
  2. If AGENCY fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to AGENCY or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing 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 AGENCY by reason of this contract.
  3. No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay:
    - a. for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday;
    - b. for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
    - c. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
  4. AGENCY shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under person services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.
  5. As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all moneys and sums that AGENCY collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.
  6. Workers' Compensation. All subject employers working under this agreement must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an exemption under ORS 656.126.
- J. Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of COUNTY.
- K. Integration. This contract contains the entire agreement between COUNTY and AGENCY and supersedes all prior written or oral discussions or agreements.

- L. Successors in Interest. The provisions of this contract shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

V. TERMINATION

- A. Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon thirty (30) business days' notice, in writing and delivered by certified mail or in person.
- B. Termination With Cause. COUNTY, by written notice of default (including breach of contract) to AGENCY, may terminate this agreement effective upon delivery of written notice to AGENCY, or at such later date as may be established by COUNTY, under any of the following conditions:
  1. If COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services, the contract may be modified to accommodate a reduction in funds.
  2. If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this agreement.
  3. If any license or certificate required by law or regulation to be held by AGENCY to provide the services required by this agreement is for any reason denied, revoked, or not renewed.
  4. If AGENCY fails to provide services, outcomes, reports as specified by COUNTY in this agreement.
  5. If AGENCY fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within 10 days or such longer period as COUNTY may authorize.



This contract consists of five (5) sections plus the following attachments which by this reference are incorporated herein:

- Exhibit A-1: Statement of Program Objectives
- Exhibit A-2: Performance Reporting Schedule and Work Plan Quarterly Report
- Exhibit A-3: Client Feedback Survey and Report
- Exhibit A-4: Demographic Report
- Exhibit B: Program Budget
- Exhibit C-1: Financial Report and Reimbursement Request
- Exhibit C-2: Monthly Activity Report
- Exhibit D: Terms and Conditions – Standard and Special
- Exhibit E: Family Support Services Program Requirements
- Exhibit F: Healthy, Stable and Attached Families Program Requirements

**AGENCY**

Northwest Family Services  
6200 SE King Road  
Portland, OR 97222

By:   
Rose Fuller, Executive Director

Date: 1/2/2018

DUNS: 612467134

EIN: 93-0841022

**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

Date: \_\_\_\_\_

  
\_\_\_\_\_  
Rodney A. Cook, Director  
Children, Youth & Families Division

Date: 1-3-18

January 18, 2018

Board of County Commissioners  
Clackamas County

Approval of Agency Service Contract with Todos Juntos for  
Family Resource Coordination

<b>Purpose/Outcomes</b>	Family Resource Coordinators (FRCs) connect families to needed resources and services, including schools, family advocates, home visitors, early childhood specialists, behavioral health services, employment specialists, pediatricians, etc. and complete appropriate early childhood screens and assessments.
<b>Dollar Amount and Fiscal Impact</b>	\$240,000 No impact to the County. Match is not required on this agreement
<b>Funding Source</b>	Oregon Department of Education Early Learning Division
<b>Duration</b>	October 1, 2017 through September 30, 2019
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Individuals and families in need are healthy and safe</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Rodney A. Cook 503-650-5677
<b>Contract No.</b>	CYF 8567

**BACKGROUND:**

Children, Youth & Families Division of the Health, Housing & Human Services Department requests approval of an Agency Service Contract with Todos Juntos to identify early learning resources and services and to coordinate the delivery of those resources and services to children ages 0-6 and their families to achieve outcomes related to kindergarten readiness, stable and attached families and early learning system coordination.

This contract has a maximum value of \$240,000 and there are no County general funds involved and match is not required. It has been reviewed and approved by County Counsel on Dec 27, 2017 and becomes effective upon signature by all parties for services starting October 1, 2017 and terminating September 30, 2019. This contract is retroactive due to County Finance requiring the contract be changed from Subrecipient agreement to agency services contracts.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services

## AGENCY SERVICE CONTRACT

### Contract # 8567

This contract is between Clackamas County, acting by and through its department of Health, Housing, & Human Services, Children, Youth & Families Division, hereinafter called "COUNTY," and Todos Juntos, hereinafter called "AGENCY."

#### I. SCOPE OF SERVICES

A. AGENCY agrees to accomplish the following work under this contract:

Family Resource Coordinators (FRCs) will work with families with children ages 0 to 6 to help them navigate health, education, and other human service systems to get the assistance and resources they need to be successful. Additionally, the FRCs will follow up with families and providers to ensure that the families have successfully accessed the services and that the services have effectively met their needs for stability, health, and school readiness. This work will be conducted in rural areas of Clackamas County as outlined in *Exhibit A-1: Statement of Program Objectives, Exhibit A-2 Performance Reporting Schedule and Work Plan Quarterly Report, Exhibit A-3 Client Feedback Survey and Report, and Exhibit A-4: Quarterly Demographic Report*, attached hereto.

B. This agreement becomes effective upon signature by all parties for services starting October 1, 2017 and shall terminate September 30, 2019.

#### II. COMPENSATION AND RECORDS

A. Compensation. COUNTY shall compensate the AGENCY for satisfactorily performing the services identified in Section I: Scope of Services. AGENCY use of funds may not exceed the amount specified in *Exhibit B: Program Budget*, attached hereto. AGENCY may not transfer funds between budget lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of this agreement.

Total maximum compensation under this contract shall not exceed **\$240,000**, broken down by fiscal year as follows:

- FY 10/1/2017 – 6/30/2018 \$ 90,000
- FY 7/1/2018 – 6/30/2019 \$120,000
- FY 7/1/2019 – 9/30/2019 \$ 30,000

Payment shall be made on a cost reimbursement basis and disbursements will be made monthly in accordance with the requirements outlined in *Exhibit C-1: Financial Report and Request for Reimbursement*, attached hereto and incorporated herein.

B. Method of Payment. To receive payment, AGENCY shall submit monthly requests for reimbursement and required documentation as outlined in *Exhibit C-1: Financial Report and Request for Reimbursement* and *Exhibit C-2: Monthly Activity Report*.

Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should AGENCY fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for causes may continue until AGENCY submits required reports, performs required services, or establishes COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

- C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this contract and all other pending matters are closed.
- D. Access to Records. COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of AGENCY which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcripts.

If an audit discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, then AGENCY shall repay the amount of the excess to COUNTY.

### III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations, and Special Federal Requirements. AGENCY shall comply with all Federal and State regulations and laws, Oregon Administrative Rules, local laws and ordinances applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in *Exhibit D: Special and Standard Terms and Conditions*, *Exhibit E: School Readiness Program Requirements* and *Exhibit F: Healthy, Stable, and Attached Families Program Requirements*, attached hereto and incorporated herein. AGENCY must, throughout the duration of this contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this contract. Further, any violation of AGENCY'S warranty, in this contract that AGENCY has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle COUNTY to terminate this contract, to pursue and recover any and all damages that arise from the breach and the termination of this contract, and to pursue any or all of the remedies available under this contract, at law, or in equity, including but not limited to:

1. Termination of this contract, in whole or in part;
2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to AGENCY, in an amount equal to COUNTY'S setoff right, without penalty; and
3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of AGENCY'S breach of this contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

- B. Background Checks. Criminal Background checks are required for direct service staff funded through this contract.
- C. Mandatory Reporting. Mandatory reporting is required for direct service staff funded through this contract.
- D. Precedence. When a requirement is listed both in the main boilerplate of the contract and in an Exhibit, the Exhibit shall take precedence.



- E. Subcontracts. AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from COUNTY.
- F. Independent Contractor. AGENCY certifies that it is an independent contractor and not an employee or agent of Clackamas County, State or Oregon or Federal government. AGENCY is not an officer, employee or agent of Clackamas County as those terms are used in ORS 30.265. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.
- G. Tax Laws. AGENCY represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:
  - 1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
  - 2. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, to AGENCY'S property, operations, receipts, or income, or to AGENCY'S performance of or compensation for any work performed by AGENCY;
  - 3. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, or to goods, services, or property, whether tangible or intangible, provided by AGENCY; and
  - 4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

#### IV. GENERAL CONDITIONS

- A. Indemnification. AGENCY agrees to indemnify, save, hold harmless, and defend COUNTY and its officers, elected officials, commissioners, agents, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demands attributable in whole or in part to the acts or omissions of AGENCY, and AGENCY's officers, agents and employees, in performance of this contract.

If AGENCY is a public body, AGENCY's liability under this contract is subject to the limitations of the Oregon Tort Claims Act.

- B. Insurance.

- 1. Commercial General Liability Insurance

Required by COUNTY       Not required by COUNTY

AGENCY shall obtain, at AGENCY's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$3,000,000 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 contract. 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 Insurance

Required by COUNTY       Not required by COUNTY



AGENCY shall also obtain, at AGENCY's expense, and keep in effect during the term of the contract, "Symbol 1" 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 \$3,000,000.

3. Professional Liability Insurance

Required by COUNTY       Not required by COUNTY

AGENCY agrees to furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/ \$3,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of 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 contract. COUNTY, at its option, may require a complete copy of the above policy.

4. Physical Abuse and Molestation Insurance Coverage. Abuse and molestation Insurance in a form and with coverage that are satisfactory to the Agency covering damages arising out of actual or threatened physical abuse, metal injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee is responsible including but not limited to grantee and Grantee's employees and volunteers. Policy endorsement's definition of an insured shall include the Grantee, and the Grantee's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individual, and irrespective of the number of incidents or injuries or the time period or are over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.
5. Excess/Umbrella Insurance. A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.
6. 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.
7. Tail Coverage. If liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the AGENCY's insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this contract.
8. Additional Insured Provisions. The insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its agents, officers, elected officials, and employees" as an additional insured, as

well as the "State of Oregon, its officers, employees and agents", but only with respect to AGENCY's activities under this agreement.

9. 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 COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 days' notice of cancellation provision shall be physically endorsed on to the policy.
  10. Insurance Carrier Rating. Coverages provided by AGENCY 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.
  11. Certificates of Insurance. As evidence of the insurance coverage required by this contract, AGENCY shall furnish a Certificate of Insurance to county. No contract shall be in effect until the required certificates have been received, approved and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration. The certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance.
  12. Primary Coverage Clarification. AGENCY's 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.
  13. Cross-Liability Clause. A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, and errors and omissions policies required by this contract.
  14. Waiver of Subrogation. AGENCY agrees to waive their rights of subrogation arising from the work performed under this agreement.
- C. Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this agreement consents to the in personam jurisdiction of said courts.
- D. Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by AGENCY and COUNTY.
- E. 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 or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.
- F. Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.

- G. 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.
- H. Oregon Constitutional Limitations. 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 provision herein, which would conflict with such law, is deemed inoperative to that extent.
- I. Oregon Public Contracting Requirements. Pursuant to the requirements of ORS 279B.020 and ORS 279B.220 through 279B.235 the following terms and conditions are made a part of this contract:
1. AGENCY shall:
    - a. make payments promptly, as due, to all persons supplying to AGENCY labor or materials for the prosecution of the work provided for in this contract
    - b. pay all contributions or amounts due the Industrial Accident Fund from such agency or subcontractor incurred in performance of this 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 to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
  2. If AGENCY fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to AGENCY or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing 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 AGENCY by reason of this contract.
  3. No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay:
    - a. for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday;
    - b. for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
    - c. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
  4. AGENCY shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under person services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.
  5. As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all

moneys and sums that AGENCY collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.

6. Workers' Compensation. All subject employers working under this agreement must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an exemption under ORS 656.126. AGENCY shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.
- J. Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of COUNTY.
- K. Integration. This contract contains the entire agreement between COUNTY and AGENCY and supersedes all prior written or oral discussions or agreements.
- L. Successors in Interest. The provisions of this contract shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

#### V. TERMINATION

- A. Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon thirty (30) business days' notice, in writing and delivered by certified mail or in person.
- B. Termination With Cause. COUNTY, by written notice of default (including breach of contract) to AGENCY, may terminate this agreement effective upon delivery of written notice to AGENCY, or at such later date as may be established by COUNTY, under any of the following conditions:
  1. If COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services, the contract may be modified to accommodate a reduction in funds.
  2. If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this agreement.
  3. If any license or certificate required by law or regulation to be held by AGENCY to provide the services required by this agreement is for any reason denied, revoked, or not renewed.
  4. If AGENCY fails to provide services, outcomes, reports as specified by COUNTY in this agreement.
  5. If AGENCY fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within 10 days or such longer period as COUNTY may authorize.



This contract consists of five (5) sections plus the following attachments which by this reference are incorporated herein:

- Exhibit A-1: Statement of Program Objectives
- Exhibit A-2: Performance Reporting Schedule and Work Plan Quarterly Report
- Exhibit A-3: Client Feedback Survey and Report
- Exhibit A-4: Quarterly Demographic Report
- Exhibit B: Program Budgets
- Exhibit C-1: Financial Report and Request for Reimbursement
- Exhibit C-2: Monthly Activity Report
- Exhibit D: Special and Standard Terms and Conditions
- Exhibit E: School Readiness Program Requirements
- Exhibit F: Healthy, Stable and Attached Families Program Requirements

**AGENCY**

Todos Juntos, Inc.  
3704 Scenic View Dr. SE  
Salem, OR 97302

By   
Eric Johnston, Executive Director

Date: 1/2/18

DUNS: 614865355

EIN: 93-1308023

**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

Date: \_\_\_\_\_

  
Rodney A. Cook, Director  
Children, Youth & Families Division

Date: 1-3-18



January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Agency Service Contract with Todos Juntos for  
Kindergarten Partnership Innovation Services

<b>Purpose/Outcomes</b>	Programming includes kindergarten readiness activities for preschool aged children, literacy and social emotional support for kindergarten students, structured playgroups and engagement events for families with preschool aged children, and intensive supports for at-risk students.
<b>Dollar Amount and Fiscal Impact</b>	\$199,967 No fiscal impact to the County and no County General Funds are involved
<b>Funding Source</b>	Oregon Department of Education – Early Learning Division
<b>Duration</b>	October 1, 2017 through September 30, 2019
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Individuals and families in need are healthy and safe</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Rodney A. Cook 503-650-5677
<b>Contract No.</b>	CYF 8631

**BACKGROUND:**

Children, Youth & Families Division of the Health, Housing and Human Services Department requests approval of Agency Service Contract with Todos Juntos to provide kindergarten readiness activities, literacy and social emotional support to preschool and kindergarten students, supports to families to promote ability to support their child's early learning and school readiness, and intensive support to kindergarten students identified as at-risk/high risk. Approximately

This contract has a maximum value of \$199,967. No County General funds are involved and no match is required. It becomes effective upon signature by all parties for services starting October 1, 2017 and terminates September 30, 2019. It has been reviewed and approved by County Counsel on December 27, 2017. This contract is retroactive due to County Finance requiring the contract be changed from Subrecipient agreement to agency services contracts.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services

## AGENCY SERVICE CONTRACT

### Contract # 8631

This contract is between Clackamas County, acting by and through its department of Health, Housing, & Human Services, Children, Youth & Families Division, hereinafter called "COUNTY," and **Todos Juntos**, hereinafter called "AGENCY."

#### I. SCOPE OF SERVICES

A. AGENCY agrees to accomplish the following work under this contract:

Implement JumpStart kindergarten readiness programming, and community-based playgroups and story times, evening family activities and engagement events, and kindergarten readiness workshops for families with preschool and kindergarten aged children in rural areas of Clackamas County (Sandy and Estacada) as outlined in *Exhibit A-1: Statement of Program Objectives*, *Exhibit A-2 Performance Reporting Schedule and Work Plan Quarterly Report*, *Exhibit A-3 Client Feedback Survey and Report*, and *Exhibit A-4: Quarterly Demographic Report*, attached hereto.

B. This agreement becomes effective upon signature by all parties for services starting October 1, 2017 and shall terminate September 30, 2019.

#### II. COMPENSATION AND RECORDS

A. Compensation. COUNTY shall compensate the AGENCY for satisfactorily performing the services identified in Section I: Scope of Services. AGENCY use of funds may not exceed the amount specified in *Exhibit B: Program Budget*, attached hereto. AGENCY may not transfer funds between budget lines without the prior written approval of the COUNTY. At no time may budget modifications change the scope of this agreement.

Total maximum compensation under this contract shall not exceed **\$199,967**, broken down by fiscal year as follows:

- FY 10/1/2017 – 6/30/2018 \$101,183
- FY 7/1/2018 – 6/30/2019 \$ 79,474
- FY 7/1/2019 – 9/30/2019 \$ 19,310

Payment shall be made on a cost reimbursement basis and disbursements will be made monthly in accordance with the requirements outlined in *Exhibit C-1: Financial Report and Request for Reimbursement*, attached hereto and incorporated herein.

B. Method of Payment. To receive payment, AGENCY shall submit monthly requests for reimbursement and required documentation as outlined in *Exhibit C-1: Financial Report and Request for Reimbursement* and *Exhibit C-2: Monthly Activity Report*.

Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should AGENCY fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for causes may continue until AGENCY submits required reports, performs required services, or establishes COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this contract and all other pending matters are closed.

- D. Access to Records. COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of AGENCY which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcripts.

If an audit discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, then AGENCY shall repay the amount of the excess to COUNTY.

### III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations, and Special Federal Requirements. AGENCY shall comply with all Federal and State regulations and laws, Oregon Administrative Rules, local laws and ordinances applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in *Exhibit D: Special and Standard Terms and Conditions* and *Exhibit E: Kindergarten Partnership and Innovation Program Requirements*, attached hereto and incorporated herein. AGENCY must, throughout the duration of this contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this contract. Further, any violation of AGENCY'S warranty, in this contract that AGENCY has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle COUNTY to terminate this contract, to pursue and recover any and all damages that arise from the breach and the termination of this contract, and to pursue any or all of the remedies available under this contract, at law, or in equity, including but not limited to:

1. Termination of this contract, in whole or in part;
2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to AGENCY, in an amount equal to COUNTY'S setoff right, without penalty; and
3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of AGENCY'S breach of this contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

- B. Background Checks. Criminal Background checks are required for direct service staff funded through this contract.
- C. Mandatory Reporting. Mandatory reporting is required for direct service staff funded through this contract.
- D. Precedence. When a requirement is listed both in the main boilerplate of the contract and in an Exhibit, the Exhibit shall take precedence.
- E. Subcontracts. AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from COUNTY.
- F. Independent Contractor. AGENCY certifies that it is an independent contractor and not an employee or agent of Clackamas County, State or Oregon or Federal government. AGENCY is not an officer, employee or agent of Clackamas County as those terms are used in ORS 30.265. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.
- G. Tax Laws. AGENCY represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
2. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, to AGENCY'S property, operations, receipts, or income, or to AGENCY'S performance of or compensation for any work performed by AGENCY;
3. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, or to goods, services, or property, whether tangible or intangible, provided by AGENCY; and
4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

#### IV. GENERAL CONDITIONS

- A. Indemnification. AGENCY agrees to indemnify, save, hold harmless, and defend COUNTY and its officers, elected officials, commissioners, agents, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demands attributable in whole or in part to the acts or omissions of AGENCY, and AGENCY's officers, agents and employees, in performance of this contract.

If AGENCY is a public body, AGENCY's liability under this contract is subject to the limitations of the Oregon Tort Claims Act.

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AGENCY agrees to furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/ \$3,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of 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 contract. COUNTY, at its option, may require a complete copy of the above policy.

4. Physical Abuse and Molestation Insurance Coverage. Abuse and molestation Insurance in a form and with coverage that are satisfactory to the Agency covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee is responsible including but not limited to grantee and Grantee's employees and volunteers. Policy endorsement's definition of an insured shall include the Grantee, and the Grantee's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individual, and irrespective of the number of incidents or injuries or the time period or are over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.
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endorsed Additional Insured. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance.

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- C. Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this agreement consents to the in personam jurisdiction of said courts.
- D. Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by AGENCY and COUNTY.
- E. 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 or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.
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1. AGENCY shall:
    - a. make payments promptly, as due, to all persons supplying to AGENCY labor or materials for the prosecution of the work provided for in this contract.
    - b. pay all contributions or amounts due the Industrial Accident Fund from such agency or subcontractor incurred in performance of this 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 to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
2. If AGENCY fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to AGENCY or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing 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 AGENCY by reason of this contract.
3. No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay:
  - a. for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday;
  - b. for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
  - c. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
4. AGENCY shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under person services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.
5. As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all moneys and sums that AGENCY collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.
6. Workers' Compensation. All subject employers working under this agreement must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an exemption under ORS 656.126.
- J. Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of COUNTY.
- K. Integration. This contract contains the entire agreement between COUNTY and AGENCY and supersedes all prior written or oral discussions or agreements.
- L. Successors in Interest. The provisions of this contract shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

#### V. TERMINATION

- A. Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon thirty (30) business days' notice, in writing and delivered by certified mail or in person.
- B. Termination With Cause. COUNTY, by written notice of default (including breach of contract) to AGENCY, may terminate this agreement effective upon delivery of written notice to AGENCY, or at such later date as may be established by COUNTY, under any of the following conditions:

1. If COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services, the contract may be modified to accommodate a reduction in funds.
2. If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this agreement.
3. If any license or certificate required by law or regulation to be held by AGENCY to provide the services required by this agreement is for any reason denied, revoked, or not renewed.
4. If AGENCY fails to provide services, outcomes, reports as specified by COUNTY in this agreement.
5. If AGENCY fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within 10 days or such longer period as COUNTY may authorize.

This contract consists of five (5) sections plus the following attachments which by this reference are incorporated herein:

- Exhibit A-1: Statement of Program Objectives
- Exhibit A-2: Performance Reporting Schedule and Work Plan Quarterly Report
- Exhibit A-3: Client Feedback Survey and Report
- Exhibit A-4: Quarterly Demographic Report
- Exhibit B: Program Budget
- Exhibit C-1: Financial Report and Request for Reimbursement
- Exhibit C-2: Monthly Activity Report
- Exhibit D: Special and Standard Terms and Conditions
- Exhibit E: KPI Program Requirements

**AGENCY**

Todos Juntos  
PO Box 645  
Canby, OR 97013

By:   
Eric Johnston, Executive Director

Date: 1/2/18

DUNS: 614865355

EIN: 93-1308023

**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

Date: \_\_\_\_\_

  
Rodney A. Cook, Director  
Children, Youth & Families Division

Date: 1-3-18

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Amendment #2 to Professional, Technical, and Personal Services Agreement with  
The Living Room for Youth/Young Adult Peer Support Services**

<b>Purpose/Outcomes</b>	Provides an afterschool drop-in program to gay, lesbian, bi-sexual, transgender, queer and questioning youth ages 14 to 20 in Clackamas County.
<b>Dollar Amount and Fiscal Impact</b>	Amendment #2 adds an additional \$41,834.00 bringing the contract maximum to \$167,334.50.
<b>Funding Source</b>	Oregon Health Authority 2017-2019 Community Mental Health Program (CMHP) Intergovernmental Agreement. No County general funds are involved.
<b>Duration</b>	Effective January 1, 2018 and terminates on June 30, 2018
<b>Previous Board Action</b>	No previous board action taken.
<b>Strategic Plan Alignment</b>	1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals. 2. Ensure safe, healthy and secure communities.
<b>Contact Person</b>	Mary Rumbaugh, Director – Behavioral Health Division (503) 742-5305
<b>Contract No.</b>	# 7840

**BACKGROUND:**

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of Amendment #2 to Agreement #7840 with The Living Room to provide After School Drop-In Peer Support Services.

This amendment is effective January 1, 2018 and terminates June 30, 2018. The value is increased by \$41,834.00 bringing the maximum to \$167,334.50. The increase of funds compensates for the added time to the contract term. This amendment also extends the term of this agreement to June 30, 2018. This contract is retroactive due to delayed contractor approval.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services Department

*Healthy Families. Strong Communities.*

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

[Clackamas.us/h3s](http://Clackamas.us/h3s)



**Contract Amendment**  
**Health, Housing and Human Services Department**

H3S Contract Number 7840 Board Agenda Number N/A  
and Date \_\_\_\_\_

Division Behavioral Health Amendment No. 2

Contractor The Living Room

Amendment Requested By Mary Rumbaugh, Director

Changes:       Scope of Services                       Contract Budget  
                     Contract Time                                       Other \_\_\_\_\_

**Justification for Amendment:**

This contract provides after school drop in Peer Support for gay, lesbian, bi-sexual, transgender, queer and questioning youth ages 14 to 20 in Clackamas County.

This amendment increases funding by **\$41,834.00** for an additional year of services. Maximum compensation reflected in Exhibit C of the contract totals **\$167,334.50**.

This amendment is effective **January 1, 2018** and continues through **June 30, 2018**.

Except as amended hereby, all other terms and conditions of the contract remain in full force and effect. The County has identified the changes with "***bold/italic***" font for easy reference.

---

**AMEND:      2.0 Term**

Services provided under the terms of this agreement shall commence July 1, 2015 and shall terminate **December 31, 2017** unless terminated earlier by one or both parties as provided for in paragraph 6.0. This agreement may be renewed annually and amended by mutual consent of both parties.

**TO READ:      2.0 Term**

Services provided under the terms of this agreement shall commence July 1, 2015 and shall terminate **June 30, 2018** unless terminated earlier by one or both parties as provided for in paragraph 6.0. This agreement may be renewed annually and amended by mutual consent of both parties.

**The Living Room**

*Professional Services Agreement – Amendment # 2*

Page 2 of 3

**AMEND:**

3.1 Compensation. COUNTY shall compensate CONTRACTOR for satisfactorily performing contracted services as specified in Exhibit B as follows:

Total payment to CONTRACTOR shall not exceed **\$125,500.50**.

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.

**TO READ:**

3.1 Compensation. COUNTY shall compensate CONTRACTOR for satisfactorily performing contracted services as specified in Exhibit B as follows:

Total payment to CONTRACTOR shall not exceed **\$167,334.50**.

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.

**The Living Room**

*Professional Services Agreement – Amendment # 2*

Page 3 of 3

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

**THE LIVING ROOM**

By:   
Signer

1/2/18  
Date

2036 SE Jefferson St.  
Street Address

Milwaukie, OR 97222  
City/State/Zip

(503) 901-5971 /  
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

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of Amendment #2 to Professional, Technical, and Personal Services Agreement with Stay Clean, Inc. for Peer Support Services

<b>Purpose/Outcomes</b>	Provides peer support services to men within the Clackamas County Jail.
<b>Dollar Amount and Fiscal Impact</b>	Amendment #2 adds an additional \$57,000 bringing the contract maximum to \$234,000.
<b>Funding Source</b>	Oregon Health Authority. No County General Funds are involved.
<b>Duration</b>	Effective January 1, 2018 and terminates on June 30, 2018
<b>Previous Board Action</b>	No previous board action taken.
<b>Strategic Plan Alignment</b>	1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals. 2. Ensure safe, healthy and secure communities.
<b>Contact Person</b>	Mary Rumbaugh, Director – Behavioral Health Division (503) 742-5305
<b>Contract No.</b>	# 7832

**BACKGROUND:**

The Behavioral Health Division (BHD) of the Health, Housing & Human Services Department (H3S) requests the approval of Amendment #2 to Professional, Technical, and Personal Services Agreement #7832 with Stay Clean, Inc. to provide peer support services to men within the Clackamas County Jail.

This amendment is effective January 1, 2018 and terminates June 30, 2018. The maximum value is increased by \$57,000 bringing the maximum to \$234,000. The increase of funds compensates for the added time to the contract term. This amendment also extends the term of this agreement to June 30, 2018. This contract is retroactive due to delayed contractor approval.

County Council reviewed and approved this amendment on December 19, 2017.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services Department

Contract Amendment  
Health, Housing and Human Services Department

H3S Contract Number: 7832

Board Agenda Number: N/A

and date: \_\_\_\_\_

Division: Behavioral Health

Amendment No. 2

Contractor: Stay Clean, Inc.

Amendment Requested By: Mary Rumbaugh, Director

Changes:        Scope of Services  
                   Contract Term

Contract Budget/Compensation  
 Other Staff Standards

**Justification for Amendment:**

This agreement provides peer support services to men within the Clackamas County Jail.

This amendment extends the term of the agreement for **six (6) months** and **adds \$57,000** to the **agreement, bringing the maximum to \$234,000.00**. This amendment also updates language to Performance Standards and adds a Qualified Service Organization Business Associate Agreement exhibit.

This amendment is effective **January 1, 2018 through June 30, 2018**.

Except as amended hereby, all other terms and conditions of the contract remain in full force and effect. The County has identified the changes with "***bold/italic***" font for easy reference.

---

**AMEND:**

**2.0 Term**

Services provided under the terms of this agreement shall commence **July 1, 2016** and shall terminate **December 31, 2017** unless terminated earlier by one or both parties as provided for in paragraph 6.0. This agreement may be renewed annually and amended by mutual consent of both parties.

**TO READ:**

**2.0 Term**

Services provided under the terms of this agreement shall commence **July 1, 2016** and shall terminate **June 30, 2018** unless terminated earlier by one or both parties as provided for in paragraph 6.0. This agreement may be renewed annually and amended by mutual consent of both parties.



**AMEND: 3.0 Compensation and Fiscal Records**

3.1 Compensation. COUNTY shall compensate CONTRACTOR for satisfactorily performing contracted services as specified in Exhibit A as follows:

Maximum payment to CONTRACTOR shall not exceed **\$177,000.00**.

**TO READ:**

3.1 Compensation. COUNTY shall compensate CONTRACTOR for satisfactorily performing contracted services as specified in Exhibit A as follows:

Maximum payment to CONTRACTOR shall not exceed **\$234,000.00**.

[continued on following page]

**AMEND: EXHIBIT C, BUDGET**

STAY CLEAN PEER SUPPORT 2016 / 2017 ANNUAL BUDGET

Personnel	FTE	Salary & Benefits	Total
Lead Peer Mentor (CRM)	1.00 FTE	\$36,000	
Peer Mentor (CRM)	.75 FTE	\$30,000	
Peer Mentor (CRM)	.75 FTE	\$30,000	\$95,000
<b>Mobile Phone</b>			
Purchase 3 cell phones @ \$100 per phone = \$300			\$3,000
Lease phone air time for 3 phones @ \$75 per phone per month = \$225 x 12 months = \$2,700			
<b>Travel Expenses</b>			
Mileage reimbursement @ \$.56 per mile X 10,000 miles = \$5,600			\$5,600
<b>Professional Training</b>			
Training and staff development to include but not be limited to Certified Recovery Mentor and other ACCBO approved trainings. \$2000			\$2000
<b>Office Space</b>			
Estimated cost allocation of additional office space and equipment @ \$400 per month X 12 months = \$4,800			\$4,800
<b>Administrative Overhead</b>			
Calculated at the rate of %12 of personnel cost (\$80,000) = \$9,600			\$9,600
<b>Total Annual Project Budget</b>			<b>\$120,000</b>
20% Startup payment of \$24,000.00 for additional personnel to be deducted off of total contract budget.			\$24,00.00
<b>Total Annual Budget after deducting startup payment</b>			<b>\$96,000.00</b>

**TO READ:**

**STAY CLEAN PEER SUPPORT ANNUAL BUDGET 2016-2017**

<b>Personnel</b>		
Position	FTE	Total Salary & Benefits
Lead Peer Mentor (CRM)	1.00 FTE	\$35,000
Peer Mentor (CRM)	.75 FTE	\$30,000
Peer Mentor (CRM)	.75 FTE	\$30,000
Note: First year includes \$24,000 for additional personnel for start up efforts.		
<b>Non-Personnel</b>		
<b>Mobile Phone</b>		
Purchase 3 cell phones @ \$100 per phone = \$300		\$3,000
Lease phone air time for 3 phones @ \$75 per phone per month = \$225 x 12 months = \$2,700		
<b>Travel Expenses</b>		
Mileage reimbursement @ \$.56 per mile X 10,000 miles =		\$5,600
<b>Professional Training</b>		
Training and staff development to include but not be limited to Certified Recovery Mentor and other ACCBO approved		\$2,000
<b>Office Space</b>		
Estimated cost allocation of additional office space and equipment @ \$400 per month X 12 months = \$4,800		\$4,800
<b>Administrative Overhead</b>		
Calculated at the rate of 12% of personnel cost (\$80,000) = \$9,600		\$9,600
<b>Total Annual Project Budget</b>		<b>\$120,000</b>

**STAY CLEAN PEER SUPPORT ANNUAL BUDGET 2017-2018**

<b>Personnel</b>		<b>\$ 95,000.00</b>
Position	FTE	Total Salary & Benefits
Lead Peer Mentor (CRM)	1.00 FTE	\$ 35,000.00
Peer Mentor (CRM)	1.5 FTE	\$ 60,000.00
<b>Materials &amp; Supplies</b>		<b>\$ 16,000.00</b>
Phone, mileage, professional training, office space, office supplies, etc.		\$ 16,000.00
<b>Administrative Overhead</b>		<b>\$ 3,000.00</b>
Administrative (rate less than 10%)		\$ 3,000.00
<b>Total Annual Project Budget</b>		<b>\$ 114,000.00</b>

**AMEND: EXHIBIT D, PERFORMANCE STANDARDS**

**B. Staff Standards**

CONTRACTOR will provide the following for all persons who are in direct contact with COUNTY clients:

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

**TO READ:**

**B. Staff Standards**

*Contractor will complete the following for all staff:*

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

*In addition, Contractor will ensure all staff with direct one-on-one contact with Clackamas County residents:*

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

*County will provide technical assistance to Contractor on exclusion process through SAM and OIG. Upon which time the County delegates Contractor the responsibility of exclusion checks at hire and monthly thereafter. County may review Contractor's adherence to exclusion checks during routine contract compliance monitoring.*

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

*In addition, Contractor shall not permit any person to provide services under this Contract who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be*

**excluded under 42 CFR 1001.101 “Program Integrity – Medicare and State Health Care Programs Subpart B”. If a Contractor submits claims, the Contractor may not submit claims for services provided after the date of such exclusion, conviction, or termination.**

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

**ADD: EXHIBIT E**

**QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT**

***This Qualified Service Organization Business Associate Agreement (“Agreement”) is entered into as of January 1, 2018 (“Effective Date”) by and between The County of Clackamas Health, Housing, and Human Services, Behavioral Health Division (“Covered Entity”), and Stay Clean, Inc. (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996 and its regulations (“HIPAA”), and Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2 (“Confidentiality Rule”).***

**RECITALS**

***Whereas, the Covered Entity has engaged the services of the Business Associate as defined under 45 CFR §160.103 for or on behalf of the Covered Entity;***  
***Whereas, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement (“Services Agreement”);***  
***Whereas, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;***  
***Whereas, the Parties agree to establish safeguards for the protection of such information;***  
***Whereas, the Covered Entity and Business Associate desire to enter into this Agreement to address certain requirements under the HIPAA Rules and the Confidentiality Rule;***  
***Now, therefore, the parties hereby agree as follows:***

**SECTION I – DEFINITIONS**

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



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

## **SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE**

*The Business Associate agrees to the following:*

- 2.1 *Not to use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law;*
- 2.2 *To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;*
- 2.3 *To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement;*
- 2.4 *To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any Security Incident of which it becomes aware;*
- 2.5 *In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions,*

- conditions and requirements that apply to the Business Associate with respect to such PHI. Notwithstanding the preceding language of this subsection, Business Associate acknowledges that PHI obtained by the Business Associate relating to individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule. This information received from the Covered Entity, is protected by the Confidentiality Rule and therefore the Business Associate is specifically prohibited from re-disclosing such information to agents or subcontractors without specific written consent of the subject Individual;**
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;**
  - 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;**
  - 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;**
  - 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;**
  - 2.10 To comply with the confidentiality, disclosure and re-disclosure requirements of the Confidentiality Rule as applicable;**
  - 2.11 To resist any efforts in judicial proceedings any efforts to obtain access to the PHI protected by the Confidentiality Rule except as expressly provided for in the Confidentiality Rule;**
  - 2.12 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;**
  - 2.13 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such electronic PHI agrees to implement reasonable and appropriate security measures to protect the PHI. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;**
  - 2.14 To retain records related to the PHI hereunder for a period of six (6) years unless this Agreement is terminated prior thereto. In the event of termination of this Agreement, the provisions of Section V of this Agreement shall govern record retention, return or destruction;**
  - 2.15 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person,**

*other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and*

- 2.16** *To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.*

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

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

**SECTION IV – NOTICE OF PRIVACY PRACTICES**

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

*any manner that would not be permissible under the HIPAA Rules if done by the Covered Entity, except as set forth in Section 3.3 above.*

**SECTION V – BREACH NOTIFICATION REQUIREMENTS**

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

**SECTION VI – TERM AND TERMINATION**

- 6.1 *Term. The term of this Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI provided by the Covered Entity to the Business Associate, or created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.*
- 6.2 *Termination for Cause. Upon the Covered Entity's knowledge of a material breach of this Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Agreement if cure is not reasonably possible. If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.*
- Upon the Business Associate's knowledge of a material breach of this Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Agreement and Services Agreement if the Covered Entity does not cure the breach*

**or end the violation within the time specified by the Business Associate, or immediately terminate this Agreement if the Covered Entity has breached a material term of this Agreement if cure is not reasonably possible.**

**6.3 Effect of Termination.**

- a. Return or Destruction of PHI. Except as provided in Section 6.3(b), upon termination of this Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.**
- b. Return or Destruction of PHI Infeasible. In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.**

**SECTION VII – GENERAL PROVISIONS**

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

*third party which results for Business Associate's breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.*

- 7.6 Survival.** *The respective rights and obligations of Business Associate under Section II of this Agreement shall survive the termination of the Services Agreement and this Agreement.*
- 7.7 Interpretation.** *Any ambiguity in this Agreement shall be resolved to permit Covered Entity to first comply with the Confidentiality Rule and second to comply with the HIPAA Rules.*

**REMOVE: ATTACHMENT 1**

A new invoice template will be provided by the County upon execution of the amendment.

[signature page follows]



**SIGNATURE PAGE**

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

**STAY CLEAN, INC.**

**COUNTY OF CLACKAMAS**

Johnnie A. Gage 12/28/17  
Signature of approving authority      Date

\_\_\_\_\_  
Richard Swift      Date  
Health, Housing, and Human Services

Johnnie A. Gage Exec. Director  
Name / Title (Printed)

Approved as to Form:

1006222-99  
Oregon Business Registry #

Kathleen J. Reddy 12/19/17  
County Counsel      Date

DNP, Domestic Nonprofit Corporation  
Entity Type / State of Formation

January 18, 2018

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with Washington County,  
for Public Health Modernization within the Communicable Disease Program.

<b>Purpose/Outcomes</b>	These funds will be used to support the development of regional public health approaches of identifying, responding to, and preventing the transmission of communicable disease with an emphasis on reducing communicable disease related health disparities.
<b>Dollar Amount and Fiscal Impact</b>	Contract maximum value is \$185,795.
<b>Funding Source</b>	Washington County pass through funds from the Oregon Health Authority. No County General Funds are involved.
<b>Duration</b>	Effective December 01, 2017 and terminates on June 30, 2019
<b>Previous Board Action</b>	No previous action has been taken
<b>Strategic Plan Alignment</b>	1. Efficient and effective Services 2. Build a strong infrastructure
<b>Contact Person</b>	Dawn Emerick, Public Health Director – 503-655-8479
<b>Contract No.</b>	8641

**BACKGROUND:**

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of an Intergovernmental Agreement with Washington County. CCPHD is partnering with Washington County to create an interdisciplinary regional CD team (ICD) with a focus on increasing and enhancing surveillance and community reporting activities, preparing for emerging diseases, creating surge capacity, increasing engagement with community partners on prevention activities and efforts to achieve health equity and identifying need and opportunity for quality improvement.

These funds will be used to support the development of regional public health infrastructure and new partnerships that are essential for meeting regional goals. Such as, developing regional approaches of identifying, responding to, and preventing the transmission of communicable disease with an emphasis on reducing communicable disease related health disparities. The contract maximum value is \$185,795. The term of the agreement is effective December 01, 2017 through June 30, 2019. This Agreement was reviewed by County Counsel on January 02, 2018.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing, and Human Services

CC-Contract#8641

## INTERGOVERNMENTAL AGREEMENT

This Agreement is entered into, by and between Washington County, a political subdivision of the State of Oregon, and Clackamas County.

WHEREAS ORS 190.010 authorizes the parties to enter into this Agreement for the performance of any or all functions and activities that a party to the Agreement has authority to perform.

Now, therefore, the parties agree as follows:

- 1) The effective date is: December 1, 2017, or upon final signature, whichever is later.  
  
The expiration date is: June 30, 2019; unless otherwise amended.
- 2) The parties agree to the terms and conditions set forth in Attachment A, which is incorporated herein, and describes the responsibilities of the parties, including compensation, if any.
- 3) Each party shall comply with all applicable federal, state and local laws; and rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition or handicap.
- 4) To the extent applicable, the provisions of ORS 279B.220 through ORS 279B.235 and ORS 279C.500 through 279C.870 are incorporated by this reference as though fully set forth.
- 5) Each party is an independent contractor with regard to each other party(s) and agrees that the performing party has no control over the work and the manner in which it is performed. No party is an agent or employee of any other.
- 6) No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 7) This Agreement may be terminated, with or without cause and at any time, by a party by providing \_\_\_\_\_ (30 if not otherwise marked) days written notice of intent to the other party(s).
- 8) Modifications to this Agreement are valid only if made in writing and signed by all parties.
- 9) Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party.
- 10) Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to this Agreement.

- 11) Each party agrees to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.269 through 30.274.
- 12) Each party agrees to comply with all local, state and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.
- 13) This Agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore.
- 14) This writing is intended both as the final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement.

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

\_\_\_\_\_  
Jurisdiction

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Address: \_\_\_\_\_

**WASHINGTON COUNTY:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Address:

Washington County  
Health and Human Services, Public Health Division  
155 North First Avenue, MS 4  
Mail Stop # 4  
Hillsboro, OR 97124

**Attachment A**  
**Public Health Modernization**  
**Statement of Work and Payment Terms 2018-2019**

**Purpose:** Public Health Modernization Funding is awarded to the tri-county area of Clackamas, Multnomah and Washington Counties for the purpose of developing regional approaches for identifying, responding to and preventing the transmission of communicable disease with an emphasis on reducing communicable disease-related health disparities. These funds will be used to support the development of regional public health infrastructure and new partnerships that are essential for meeting regional goals.

**Background:**

The tri-county area submitted a regional PH modernization grant proposal that was funded for the period of December 1 2017 through June 30 2019. The shared vision for this funding was to create an interdisciplinary regional CD team (ICD) with a focus on increasing and enhancing surveillance and community reporting activities, preparing for emerging diseases, creating surge capacity, increasing engagement with community partners on prevention activities and efforts to achieve health equity and identifying need and opportunity for quality improvement.

**Program Element Deliverables:**

Funds provided under this agreement for this Program Element may only be used in accordance with and subject to the requirements and limitations set forth in Program Element #51 to deliver Public Health Modernization: Regional Partnership Implementation.

1. **Establish a regional partnership of local public health authorities and other stakeholders.**  
Develop and sustain Regional Infrastructure through a Regional Partnership of LPHAs and other stakeholders.
2. **Implement regional strategies to control communicable disease and reduce health disparities.**  
Implement regional strategies to control communicable disease within the region. Place emphasis on reducing communicable disease-related disparities.
3. **Demonstrate new approaches for providing public health services.** Participate in learning communities and ongoing evaluation. Share emerging practices and demonstrate how these practices can be applied across the public health system.

All parties to this IGA are jointly responsible to achieve the required program element deliverables which include:

- Creation and implementation of a policy or agreement describing the regional relationship between participating LPHAs and strategic partners by March 3, 2018.
- Organizational chart for regional partnership by March 31, 2018.
- Regional health equity assessment and action plan by December 31, 2018.



- At least two additional products such as regional policies, data sharing agreements, communication materials by June 30, 2019.

Additionally all parties to this IGA are jointly responsible to assist in reporting requirements including:

- Final regional work plan for implementing strategies for communicable disease control and reducing health disparities four weeks after initial funding is received.
- Submission of quarterly progress reports on progress towards work plan activities, deliverables and milestones using the timeline and format prescribed by OHA.

**General Requirements:**

All parties of this agreement will ensure their counties' participation to:

- Implement local and regional strategies for communicable disease activities with an emphasis on reducing CD related health disparities as described in the work plan.
- Use funds in accordance with the regional program budget approved by OHA. Modification to the regional program budget of 10% or more for any line item may only be made with OHA approval.
- Develop regional infrastructure and regional partnerships to achieve work plan activities.
- Develop and participate in a performance management system established to monitor achievement of work plan activities, deliverables and milestones.
- Participate in quarterly calls with OHA.
- Participate in in-person and remote collaborative learning opportunities.
- Participate in evaluation in the manner prescribed by OHA.
- Share information about regional partnership strategies for communicable disease control and reducing health disparities.

**General Budget and Expense Reporting:**

Washington County agrees to pay Clackamas County, a maximum of \$185,795 between December 1 2017 and June 30 2019. All contract payments are subject to availability of funds from OHA.

Funding Source: State General Funds State IGA 154132 Account: 100.703010.7030072
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Contractor must submit an invoice to request reimbursement for true and verifiable expenses on a monthly or at minimum quarterly basis no later than the 15<sup>th</sup> of the month following the end of each fiscal year quarter. Supporting documentation from accounting software should be submitted along with any invoice and should tie to the amount being requesting to be paid.

A cover document on contractor letterhead should also be included with invoices and include the following; 1) attestation statement that the invoice is a true and accurate account of efforts (hours) and expenses 2) printed name of individual certifying the invoice 3) signature of individual certifying the invoice.

Invoices should be e-mailed or mailed to:

Amy Manchester Harris

Washington County

Health and Human Services, Public Health Division

155 North First Avenue, MS4

Hillsboro, Or 97124

[Amy\\_Manchester\\_Harris@co.washington.or.us](mailto:Amy_Manchester_Harris@co.washington.or.us)

503-846-3640

**Work Plan: Attachment A – Part II**

## Attachment A – Part II

Public Health Modernization Work Plan Revision	12.6.2018	Light Green - Means partial Quarter	Changes in Red				
SMART objective(s)	By March 1, 2018, have regional infrastructure in place to lead successful implementation of acute environments and CD control activities						
ACTIONS	Timeline (start and date)	1st Quarter 1/18-3/18	2nd Quarter 4/18-6/18	3rd Quarter 7/18-9/18	4th Quarter 10/18-12/18	5th Quarter 1/19-3/19	7th Quarter 4/19-6/19
Line staff	1/1/18-3/1/2018						
Set-up Grant Accounting System	1/1/18-3/1/2018						
Get sub-contracts in place	1/1/18-3/1/2018						
Participate in OHA collaborative learning	1/1/18-6/30/2019						
Seek opportunities to share tri-county CD strategies reducing health disparities with other organizations	1/1/19-6/30/2019						
Submit semi-annual budget report and progress reports on progress toward achieving work plan activities, deliverables, milestones and information on additional funds leveraged to support the regional work plan	6/30/2018 or other identified deadlines						
Identify and coordinate county level resources contributing to formation of the ICD team and implementation of the regional work plan including CCPH3SDI collaborative activities, MCH/DCHEA health equity activities, and tri-county activities to engage Health Share in data sharing activities.	1/1/2018-6/30/2019						
By the end of the grant, submit a) one policy, b) ICD team organizational chart c) regional work plan for implementing strategies for communicable disease control and reducing health disparities, d) regional health equity assessment and action plan and e) two products.	1/1/2018-6/30/2019						
<b>SMART objective(s)</b>	<b>By September 30, have an established regional CD identification and control plan.</b>						
Conduct at least bi-monthly (at least 10) meetings	5/1/18-6/30/2019						
Formulate all venues to include: decision-making, resource allocation, and implementation and monitoring of an approved work plan, as needed.	4/1/18-6/30/2019						
Develop meaningful relationships with strategic partners to assist in the development of tri-county work plan.	1/1/2018 - 6/30/2019						
Complete tri-county CD control program/governance health equity lens assessment on evaluability responsiveness.	4/1/2018-7/31/2018						
Complete a tri-county action plan addressing findings of the health equity assessment and identifying which strategies and activities will be implemented at the county level and which will be implemented at the local level.	7/1/2018-6/30/2019						
Identifying criteria for addressing Tri-county CD threats balancing urban/suburban and rural needs	7/1/2018-9/30/2018						
Develop tri-county CD identification and control work plan and performance management system	4/1/2018-7/31/2018						
Complete a tri-county action plan addressing of health equity assessment	7/1/2018-9/30/2018						
Implement and monitor a tri-county CD identification and control work plan with strategic partners.	7/1/2018-9/30/2018						
<b>SMART objective(s)</b>	<b>By June 30, 2019, develop at least 2 culturally competent infectious disease prevention interventions.</b>						
Work directly with communities to co-create strategies at both local county and regional levels to control communicable disease transmission.	10/1/2018-6/30/2019						
Develop a communication plan to provide CD risk information to the general public, at risk populations and strategic partners.	10/1/2018-3/1/2019						
Develop culturally appropriate information to at-risk populations with input from key stakeholders from at-risk populations.	10/1/2018-3/1/2019						
Develop and provide cultural appropriate information to at-risk populations	10/1/2018-6/30/2019						
Develop providers and other strategic partners CD training to include best/emerging practices.	10/1/2018-6/30/2019						
Provide CD training and technical assistance on best/emerging practices to providers.	1/1/2019-6/30/2019						
As relevant, provide CD training and technical assistance to strategic partners.	1/1/2019-6/30/2019						
<b>SMART objective(s)</b>	<b>By June 30, 2019, develop, implement and report on findings of the evaluation which includes systems for tracking metrics using performance management system to monitor achievement and course correction, as needed.</b>						
Develop meaningful relationships with strategic partners to assist in the development of tri-county evaluation plan.	1/1/2018 - 6/30/2019						
Develop systems for tracking metrics using performance management system to monitor achievement; data not included in Orphanic; and systems to ensure sharing of data cross jurisdictionally.	2/1/18-3/31/2018						
Identifying criteria for addressing tri-county CD threats balancing urban/suburban and rural needs	7/1/2018-9/30/2018						
Refine existing, and develop additional, risk evaluation protocols for the tri-county region	1/1/2018-6/30/2019						
Develop tri-county CD evaluation plan demonstrating capacity, responsiveness and improvement plan.	4/1/2018-9/30/2018						

## **Program Element #51: Public Health Modernization: Regional Partnership Implementation**

1. **Description.** Funds provided under this Agreement for this Program Element may only be used in accordance with, and subject to, the requirements and limitations set forth below, to deliver Public Health Modernization: Regional Partnership Implementation.
  - a. **Establish a Regional Partnership of local public health authorities (LPHAs) and other stakeholders.** Develop and sustain Regional Infrastructure through a Regional Partnership of LPHAs and other stakeholders.
  - b. **Implement regional strategies to control communicable disease and reduce health disparities.** Implement regional strategies to control communicable disease within the region. Place emphasis on reducing communicable disease-related disparities.
  - c. **Demonstrate new approaches for providing public health services.** Participate in learning communities and ongoing evaluation. Share emerging practices and demonstrate how these practices can be applied across the public health system.

The 2016 public health modernization assessment<sup>1</sup> showed that health equity and cultural responsiveness is the least implemented foundational capability across Oregon's public health system, and that one in four people live in an area in which communicable disease control programs are limited or minimal.

LPHA must use funds provided through this Program Element to establish a regional approach for communicable disease control that is tailored to a specific communicable disease risk within the region. LPHA must place emphasis on identifying and reducing communicable disease-related disparities. LPHA must demonstrate models for Regional Infrastructure that are scalable in other areas of the state or for other public health programs.

All changes to this Program Element are effective upon receipt of grant award unless otherwise noted in Exhibit C of the Financial Assistance Award.

2. **Definitions Specific to Public Health Modernization: Regional Partnership Implementation.**
  - a. **Foundational Capabilities.** The knowledge, skills and abilities needed to successfully implement Foundational Programs.
  - b. **Foundational Programs.** The public health system's core work for communicable disease control, prevention and health promotion, environmental health, and assuring access to clinical preventive services.
  - c. **Public Health Accountability Outcome Metrics.** A set of data used to monitor statewide progress toward population health goals.
  - d. **Public health accountability process measures.** A set of data used to monitor local progress toward implementing public health strategies that are necessary for meeting Public Health Accountability Outcome Metrics.
  - e. **Public Health Modernization Manual:** A document that provides detailed definitions for each Foundational Capability and program for governmental public health, as identified in ORS 431.131-431.145. The Public Health Modernization Manual is available at: [http://www.oregon.gov/oha/PH/ABOUT/TASKFORCE/Documents/public\\_health\\_modernization\\_manual.pdf](http://www.oregon.gov/oha/PH/ABOUT/TASKFORCE/Documents/public_health_modernization_manual.pdf).

<sup>1</sup> 2016. Oregon Health Authority. State of Oregon Public Health Modernization Assessment Report. Available at [www.oregon.gov/oha/PH/ABOUT/TASKFORCE/Documents/PHModernizationFullDetailedReport.pdf](http://www.oregon.gov/oha/PH/ABOUT/TASKFORCE/Documents/PHModernizationFullDetailedReport.pdf).

- f. Regional Partnership. A group of two or more LPHAs and at least one other organization that is not an LPHA that is convened for the purpose of implementing strategies for communicable disease control and reducing health disparities.
- g. Regional Infrastructure. The formal relationships established between LPHAs and other organizations to implement strategies under this funding.
- h. Regional Governance. The processes and tools put in place for decision-making, resource allocation, communication and monitoring of the Regional Partnership.

3. **Program Components.** Activities and services delivered under this Program Element align with Foundational Programs and Foundational Capabilities, as defined in Oregon's Public Health Modernization Manual, ([http://www.oregon.gov/oha/PH/ABOUT/TASKFORCE/Documents/public\\_health\\_modernization\\_manual.pdf](http://www.oregon.gov/oha/PH/ABOUT/TASKFORCE/Documents/public_health_modernization_manual.pdf)) as well as with Public Health Accountability Outcome Metrics and Process Measures (if applicable) as follows:

a. **Foundational Programs and Capabilities** (As specified in the Public Health Modernization Manual)

Program Components	Foundational Program					Foundational Capabilities						
	CD Control	Prevention and health promotion	Environmental health	Population Health	Access to clinical preventive services Direct services	Leadership and organizational competencies	Health equity and cultural responsiveness	Community Partnership Development	Assessment and Epidemiology	Policy & Planning	Communications	Emergency Preparedness and Response
Establish a Regional Partnership	X					X		X		X		
Implement communicable disease control strategies	X						X	X	X	X	X	X
Demonstrate new approaches for providing public health services	X					X		X		X		X

b. **Public Health Accountability Outcome Metrics:**

The 2017-2019 public health accountability metrics adopted by the Public Health Advisory Board for communicable disease control are:

- Two year old immunization rates
- Gonorrhea rates

LPHA is not required to select two year-old immunization rates or gonorrhea rates as areas of focus for funds made available through this Program Element. LPHA is not precluded from using funds to address other high priority communicable disease risks based on local epidemiology and need.



**c. Public Health Accountability Process Measure:**

The 2017-19 public health accountability process measures adopted by the Public Health Advisory Board for communicable disease control are listed below. LPHA must select a high priority communicable disease risk based on local epidemiology and need, the following process measures may not be relevant to all LPHAs.

- Percent of Vaccines for Children clinics that participate in the Assessment, Feedback, Incentives and eXchange (AFIX) program
- Percent of gonorrhea cases that had at least one contact that received treatment
- Percent of gonorrhea case reports with complete "priority" fields

**4. Procedural and Operational Requirements.** By accepting and using the Financial Assistance awarded under this Agreement and for this Program Element, LPHA agrees to conduct activities in accordance with the following requirements:

- a. Implement activities in accordance with this Program Element.
- b. Engage in activities as described in its Public Health Modernization Regional Work Plan, which has been approved by OHA and as set forth in Attachment 1, incorporated herein with this reference.
- c. Use funds for this Program Element in accordance with its Regional Program Budget, which has been approved by OHA and as set forth in Attachment 2, incorporated herein with this reference. Modification to the Regional Program Budget of 10% or more for any line item may only be made with OHA approval.
- d. Develop Regional Infrastructure through formation of a Regional Partnership of LPHA and other partners.
  - (1) Maintain a Regional Partnership leadership team list for communication with OHA.
  - (2) Use a formal Regional Governance structure for decision-making, resource allocation and implementation of approved regional work plan for LPHA and partners participating in the Regional Partnership.
  - (3) Ensure the Regional Partnership is staffed at the appropriate level to address all sections in this Program Element and to fulfill work plan objectives and activities.
  - (4) Ensure funding is used to support Regional Partnership goals as well as meet the needs of all participating LPHA and partners.
- e. Implement regional strategies to address a specific communicable disease risk for the region with an emphasis on reducing communicable disease-related health disparities.
  - (1) Engage local organizations as strategic partners to control communicable disease transmission.
  - (2) Develop and implement a system for identification and control of communicable disease with strategic partners.
  - (3) Use established best practices whenever possible.
  - (4) Establish partnerships with Regional Health Equity Coalitions, federally recognized tribes, community-based organizations and other entities in order to develop meaningful relationships with populations experiencing a disproportionate burden of communicable disease and poor health outcomes.
  - (5) Work directly with communities to co-create strategies to control communicable disease transmission. Ensure that health interventions are culturally responsive.



- (6) Communicate to the general public and/or at risk populations about communicable disease risks.
  - (7) Provide training to health care and other strategic partners about communicable disease risks and methods of control. Provide technical assistance to health care and other strategic partners to implement best and emerging practices.
  - (8) Develop and implement a system for communications with strategic partners about disease transmission.
  - (9) Demonstrate capacity to routinely evaluate communicable disease control systems through the response to disease reports and make changes to practice based on evaluation findings.
  - (10) Complete an assessment of the region's capacity to apply a health equity lens to communicable disease control programs and services and to provide culturally responsive communicable disease control programs and services.
  - (11) Complete an action plan that addresses key findings from the regional health equity assessment for communicable disease control.
- f. Implement and use a performance management system to monitor achievement of work plan activities, deliverables and milestones.
  - g. Participate in quarterly calls with OHA to discuss progress toward regional work plan activities, deliverables and milestones.
  - h. Ensure members of the Regional Partnership leadership team participate in the planning of and attend two in person collaborative learning opportunities and other remote collaborative learning opportunities.
  - i. Participate in evaluation of public health modernization implementation in the manner prescribed by OHA.
  - j. Seek opportunities to share information about Regional Partnership strategies for communicable disease control and reducing health disparities with outside organizations.
5. **General Budget and Expense Reporting.** LPHA must complete an "Oregon Health Authority Public Health Division Expenditure and Revenue Report" located in Exhibit C of the Agreement. These reports must be submitted to OHA each quarter, by the 25<sup>th</sup> of the month following the end of the fiscal year quarter.
6. **Reporting Requirements.**
- a. Have on file with OHA an approved Regional Work Plan no later than four weeks after initial funding is received.
  - b. Submit quarterly Regional Work Plan progress reports using the timeline and format prescribed by OHA.
  - c. Submit to OHA the following deliverables, in the timeframe specified:
    - (1) A minimum of one new policy (e.g., Memorandum of Understanding, Joint Agreement, County Resolution) describing the Regional Partnership by March 31, 2018
    - (2) Regional Partnership organizational chart by March 31, 2018
    - (3) Regional health equity assessment and action plan by December 31, 2018
    - (4) At least two additional products (e.g., regional policies for implementation of a best or emerging practice, data sharing agreements, or communication materials) by June 30, 2019

7. **Performance Measures.**

If Regional Partnership completes fewer than 75% of the planned activities in its approved work plan for two consecutive calendar quarters in one state fiscal year, LPHA shall not be eligible to receive funding under this Program Element during the next state fiscal year.

Board of Commissioners  
Clackamas County

Members of the Board:

Approval of a Personal/Professional Services Contract with Folk-Time, Inc. for Peer Support Services at the Riverstone Crisis Clinic for the Safety Net Program

<b>Purpose/Outcomes</b>	To provide peer support services at the Riverstone Crisis Clinic for the Safety Net Program.
<b>Dollar Amount and Fiscal Impact</b>	The maximum contract value is \$419,454.00.
<b>Funding Source</b>	Oregon Health Authority - no County General Funds are involved.
<b>Duration</b>	Effective upon signature and terminates on June 30, 2019
<b>Previous Board Action</b>	Previous versions of this project provided by this vendor were reviewed by the Board, the most recent on 9/29/16 (agenda item 092916-A4)
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals.</li> <li>2. Ensure safe, healthy and secure communities.</li> </ol>
<b>Contact Person</b>	Mary Rumbaugh, Director, Behavioral Health Division 503-742-5305
<b>Contract No.</b>	8142

**BACKGROUND:**

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of a Personal/Professional Services Agreement with Folk-Time, Inc. for peer support services to clients at the Riverstone Crisis Clinic for the Safety Net Program. Peer support services are provided directly to consumers of County Behavioral Health services in the crisis clinic (Riverstone) working in collaboration with County service teams. The Behavioral Health Division has partnered with Folk-Time, Inc. for behavioral health services since 2010. This contract is a continuation of these services.

On August 17, 2017, Procurement issued a Request for Proposals for peer support services. Procurement received one (1) proposal from Folk-Time, Inc. An evaluation of the response was conducted and Folk-Time, Inc. was found to be a responsive and responsible proposal. The proposed contract will have an effective date from the date of approval by the Board through June 30, 2019. The maximum compensation allowed under the contract is \$419,454.00.

County Counsel reviewed and approved this Contract.

**RECOMMENDATION:**

Staff recommends the Board approval of this Contract with Folk-Time, Inc. Staff further recommends that the Board Delegate authority to the Clackamas County Health, Housing, and Human Services Director to sign agreements necessary in the ongoing performance of this Contract for a two (2) year period.

Respectfully submitted,

Richard Swift, Director  
Health, Housing, and Human Services

Place on the board agenda of \_\_\_\_\_ by the Procurement Division.



CLACKAMAS COUNTY  
PERSONAL/PROFESSIONAL SERVICES CONTRACT

#8142

This Personal/Professional Services Contract (this “Contract”) is entered into between Folk-Time, Inc. (“Contractor”), and Clackamas County, a political subdivision of the State of Oregon (“County”).

**ARTICLE I.**

**1. Effective Date and Duration.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on June 30, 2019. 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.

**2. Scope of Work.** Contractor will provide the following personal/professional services: Peer Support Services – Safety Net Services (“Work”), further described in **Exhibit A.**

**3. Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed four hundred nineteen thousand, four hundred fifty-four dollars and zero cents (\$419,454.00), for accomplishing the Work required by this Contract. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

**4. Travel and Other Expense.** Authorized:  Yes  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.

**5. Contract Documents.** This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibits A, B, C, D, and E.

**6. Contractor Data.**

**Address:** 232 SE 80<sup>th</sup> Ave., Portland, Oregon 97215

**Contractor Contract Administrator:** Angel Prater

**Phone No.:** (503) 238-6428

**Email:** [aprater@folktime.org](mailto:aprater@folktime.org)

**MWESB Certification:**  DBE #  MBE #  WBE #  ESB #

Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject Contractor to backup withholding.

## ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.
5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.



7. **HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
8. **INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.
9. **INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the Contractor is presently a member of the Oregon Public Employees Retirement System); and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Exhibit C)

At present, the Contractor certifies that he or she, if an individual is not a program, County or Federal employee. The Contractor, if an individual, certifies that he or she is not a member of the Oregon Public Employees Retirement System.

10. **INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit B**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
11. **LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us), or to Contractor or at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.
- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. SEVERABILITY** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Paragraphs 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

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

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

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

**21. REMEDIES.** (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the County, less previous

amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

- 22. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 26. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.
- (C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under

the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

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

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

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

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

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

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized

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

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

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

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

**30. HIPAA.** Contractor agrees that Contractor, its agents and employees shall maintain the confidentiality of any client identified information, written or otherwise, with which they may come in contact, in accordance with all applicable provisions of state and federal statutes, rules, and regulations, and shall comply with the same in the event of request for information by any person or federal, state, or local agency. In addition, the Contractor acknowledges the existence of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), PL 104-191, 45 CFR parts 160-164, and agrees that Contractor and Contractor's agents and employees will comply with all applicable requirements of HIPAA related to confidentiality of client records or other client identifying information.

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



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

Folk-Time, Inc.

Clackamas County

\_\_\_\_\_  
Authorized Signature                      Date

\_\_\_\_\_  
Chair    Date

\_\_\_\_\_  
Name / Title (Printed)

\_\_\_\_\_  
Recording Secretary                                      Date

527094-83  
Oregon Business Registry #

Approved as to Form:

\_\_\_\_\_  
Entity Type / State of Formation

\_\_\_\_\_  
County Counsel    Date

**EXHIBIT A**  
**PERSONAL/PROFESSIONAL SERVICES CONTRACT**

**SCOPE OF WORK**

Scope:

1. Work in conjunction with County to promote a recovery oriented support system that focuses on hope, choice, personal responsibility, and self-determination.
2. Provide Peer Support Services, using a Peer Support Team model, to consumers at the following service site and work in collaboration with service teams:
  - **County's walk in Crisis Center** located at 11211 SE 82nd Avenue, Suite O in Happy Valley, Oregon
3. Contractor will provide the following staff per week:
  - 2.5 FTE Peer Specialists
  - 0.6 FTE Peer Supervisor
4. Peer Support staff will provide the following support activities for individuals seeking peer services:
  - Support will be offered through the hospital, law enforcement, and crisis response programs to individuals who experience:
    - i. Reoccurring hospitalizations
    - ii. Frequent police contact
    - iii. Have been newly diagnosed
    - iv. Are having difficulty engaging with natural community supports
5. Assist individuals in building natural support systems to aid in their return to the community.
6. Offer both group and individual support.

Staff Standards:

1. Contractor will complete the following for all staff:
  - Successful completion of criminal history check through the State of Oregon Background Check Unit ("BCU") compliant with ORS Chapter 181 and OAR 407-007-0000 to OAR 407-007-0370.
  - Positive clearance through the General Services Administration System for Award Management ("SAM") at the time of their hire and monthly thereafter
  - Positive clearance through the Office of Inspector General's ("OIG") List of Excluded Individuals/Entities at time of hire and monthly thereafter.
  - Review appropriate education and academic degrees
  - Review relevant work history or qualifications
  - Document and certify that the staff's education, experience, competence and supervision are adequate to permit the staff to perform the assigned duties
2. Contractor will ensure all staff with direct one-on-one contact with Clackamas County residents:
  - Complete Oregon Health Authority approved training program for Peer Delivered Services and adherence to all requirements in the Tradition Health Worker administrative rules including, OAR 410-180-0300 to OAR 410-180-0380.

3. County will provide technical assistance to Contractor on exclusion process through SAM or OIG. Upon which time the County delegates Contractor the responsibility of the exclusion checks as specified above. County may review Contractor’s adherence to exclusion checks during routine contract compliance monitoring.
4. Contractor will not permit any person to provide services under this Contract if that person is listed on the non-procurement portion of the General Services Administration’s SAM in accordance with Executive Orders No. 12549 and No. 12689, “Debarment and Suspension” (2 CFR Part 180).
5. Contractor will not permit any person to provide services under this Contract who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101 “Program Integrity – Medicare and State Health Care Programs Subpart B”. The Contractor may not submit claims for services provided after the date of such exclusion, conviction, or termination.
6. If Contractor is unable to adhere with the above listed requirements, Contractor will communicate directly with Clackamas County’s Peer Services Coordinator a plan for meeting Contract requirements.

Standards of Work

1. Peer Support Specialists will use a whole health approach not only addressing issues of mental health and addiction, but spiritual and physical health as requested by the individual.
2. Peer Support Specialists may provide documentation of services provided via the County’s electronic record system if the County program chooses to utilize Medicaid billing for peer services provided. When Medicaid will be billed for services, the following documentation will be provided:
  - Write a brief note for each service provided that describes the services
  - Ensure that a goal has been included in the plan allowing for the billing of peer services.
3. County will be responsible for providing training to the Contractor as necessary for Contractor to provide documentation via the County’s electronic records system.
4. Collaborate with the County and other service providers to encourage communication and collaboration regarding the individual’s success in attaining their self-directed goals.
5. Provide administrative and operational oversight of Peer Support staff that includes training, schedule coordination, and supervision. Peer Support staff will receive co-supervision if Medicaid billing is utilized within the County program for peer services. Peer supervision will be provided by Contractor and clinic supervision will be provided by a qualified Clinic Supervisor, as defined in Oregon Administrative Rules, located within the County program.

Reporting Requirements:

Quarterly reports will be submitted to the County no later than thirty (30) days following the end of each calendar quarter, unless otherwise specified. Due dates for the reports are as follows:

<b>1<sup>st</sup> Quarter</b>	July 1 – September 30	Due October 31
<b>2<sup>nd</sup> Quarter</b>	October 1 – December 31	Due January 31
<b>3<sup>rd</sup> Quarter</b>	January 1 – March 31	Due April 30
<b>4<sup>th</sup> Quarter</b>	April 1 – June 30	Due July 31

Submit reports electronically to: [alinfoor@clackamas.us](mailto:alinfoor@clackamas.us)

Or U.S. Mail:

Ally Linfoot, Peer Services Coordinator  
Clackamas County Behavioral Health Division  
2051 Kaen Road, Suite 154  
Oregon City, Oregon 97045

1. Contractors report will include:
  - Total Number of individuals served each quarter
  - Number of new individuals served each quarter
    - i. Number of individuals referred by a hospital
    - ii. Number of individuals referred by the Sheriff's Office
    - iii. Number of individuals referred by Crisis programs
  - Number of individuals whose services concluded each quarter
  - Number of individuals referred to another peer support program each quarter
  - Location of services (i.e., Crisis Center, community, hospital, Sheriff's Office)
  - Type of service (i.e., individual, group, and training)
2. Contractor will submit a report summarizing the experience of services provided as reported by individuals served. This report will include, but is not limited to, the following indicators:
  - Number of individuals receiving follow-up care by a peer after hospitalization or use of emergency services.
  - Number of individuals served by a peer that have not returned to hospital, jail, or utilized emergency services after receiving peer services for at least thirty (30) days.
  - Number of individuals engaged in positive activities in their community after receiving peer services for at least three (3) months.
  - Number of individuals reporting there has been an increase in overall wellness (whole health)
3. Contractor will report the number of trainings, workshops, or outreach activities attended or provided during the quarter. This report will include, but is not limited to, the following:
  - Number of continuing education or training programs attended by Peer Support staff
  - Number of support groups, workshops, and peer activities provided for individuals being served
  - Number of outreach activities conducted to inform individuals and system partners about Peer Support Services available to them
4. Contractor will collect data from people served under this Contract. It is understood that data collection may not always be possible due to incorrect contact information, the exercising of privacy rights, people who do not return for services, etc.
5. County will provide copies of outreach, recruitment, attendance rosters, and demographic information, evaluation reports, and other materials as requested.

The County Contract administrator for this Contract is: Ally Linfoot, Peer Services Coordinator, Clackamas County Behavioral Health Division, (503)

## **CONSIDERATION**

- a. Consideration Rates – Fixed Fee basis outlined in Exhibit E – Contractors Budget.

- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462 and shall not exceed the total maximum sum of \$419,454.00. Invoices shall be submitted electronically to:

[BHAP@clackamas.us](mailto:BHAP@clackamas.us) and [ALinfoot@clackamas.us](mailto:ALinfoot@clackamas.us)

Or by mail to:

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

- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. Payments shall be made to Contractor following the County's review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. Invoices shall describe all Work performed, and shall itemize and explain all expenses for which reimbursement is claimed. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.

**EXHIBIT B  
INSURANCE**

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

**1. Required by County of Contractor with one or more workers, as defined by ORS 656.027.**

**Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126.**

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

**Professional Liability** insurance with a combined single limit, or the equivalent, of not less than \$2,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$4,000,000. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

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

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

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

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

**5. Certificates of Insurance.** Contractor shall furnish evidence of the insurance required in this Contract. The insurance for general liability and automobile liability must include an endorsement naming the County, its officers, elected officials, agents, and employees as additional insureds with respect to the Work under this Contract. Insuring companies or entities are subject to County acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

**6. Notice of cancellation or change.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [purchasing@clackamas.us](mailto:purchasing@clackamas.us).



**EXHIBIT C**  
**QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT**

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

**RECITALS**

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

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

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

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

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

**Now, therefore**, the parties hereby agree as follows:

**SECTION I – DEFINITIONS**

- 1.1 “Breach” is any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
  - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within a Workforce member’s course and scope of employment or placement;
  - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Workforce members; and
  - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Disclose” or “disclosure” shall have the meaning given to such terms under the Confidentiality Rule, 42 CFR §2.11.
- 1.5 “Effective Date” shall be the Effective Date of this Agreement.
- 1.6 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Agreement.
- 1.7 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.8 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.
- 1.9 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

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

**SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE**

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement;
- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI. Notwithstanding the preceding language of this subsection, Business Associate acknowledges that PHI obtained by the Business Associate relating to individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule. This information received from the Covered Entity, is protected by the Confidentiality Rule and therefore the Business Associate is specifically prohibited from re-disclosing such information to agents or subcontractors without specific written consent of the subject Individual;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the

- Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
  - 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
  - 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
  - 2.10 To comply with the confidentiality, disclosure and re-disclosure requirements of the Confidentiality Rule as applicable;
  - 2.11 To resist any efforts in judicial proceedings any efforts to obtain access to the PHI protected by the Confidentiality Rule except as expressly provided for in the Confidentiality Rule;
  - 2.12 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
  - 2.13 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such electronic PHI agrees to implement reasonable and appropriate security measures to protect the PHI. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
  - 2.14 To retain records related to the PHI hereunder for a period of six (6) years unless this Agreement is terminated prior thereto. In the event of termination of this Agreement, the provisions of Section V of this Agreement shall govern record retention, return or destruction;
  - 2.15 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
  - 2.16 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

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

- 3.1 The Covered Entity and the Business Associate agree that this Agreement constitutes a Qualified Service Organization Agreement as required by the Confidentiality Rule. Accordingly,

information obtained by the Business Associate relating to Individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule.

- 3.2 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.3 Except as otherwise limited in this Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the Confidentiality or HIPAA Rules if done by the Covered Entity; and,
- 3.4 Except as otherwise limited in this Agreement, the Business Associate may:
  - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate so long as such use is also permitted by the Confidentiality Rule; and,
  - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. PHI that is also subject to the Confidentiality Rule cannot be disclosed to a third party except as permitted under the Confidentiality Rule.

#### **SECTION IV – NOTICE OF PRIVACY PRACTICES**

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

#### **SECTION V – BREACH NOTIFICATION REQUIREMENTS**

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
  - a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
  - b. By notice in plain language including and to the extent possible:
    - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
    - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
    - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;

- 4) A brief description of what the Covered Entity and/or Business Associate involved is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
  - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
- c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
  - d. Provided notice to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.

5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

## SECTION VI – TERM AND TERMINATION

6.1 **Term.** The term of this Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI provided by the Covered Entity to the Business Associate, or created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Agreement if cure is not reasonably possible.

If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.

Upon the Business Associate's knowledge of a material breach of this Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Agreement and Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Agreement if the Covered Entity has breached a material term of this Agreement if cure is not reasonably possible.

6.3 **Effect of Termination.**

a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.

b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

**SECTION VII – GENENERAL PROVISIONS**

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

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

**Business Associate**  
*Folk-Time, Inc.*

**Covered Entity**  
*Clackamas County*

By: \_\_\_\_\_  
Signature Authority

By: \_\_\_\_\_  
Richard Swift

Title: \_\_\_\_\_

Title: Director, H3S

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT D  
CONTRACTOR PROPOSAL**

**EXHIBIT E**  
**CONTRACTOR BUDGET**



M. BARBARA CARTMILL  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with Clackamas River  
Water for Use of a Temporary Construction Easement  
Related to the Clackamas River Bridge Construction Project

<b>Purpose/Outcomes</b>	Approval of an intergovernmental agreement to permit Clackamas River Water to use the County's temporary construction easement.
<b>Dollar Amount and Fiscal Impact</b>	N/A
<b>Funding Source</b>	N/A
<b>Duration</b>	To be terminated once Clackamas River Water completes construction or August 30, 2021, whichever is earlier.
<b>Previous Board Contact</b>	None
<b>Strategic Plan Alignment</b>	Build a strong infrastructure. Build public trust through good government.
<b>Contact Person</b>	Stan Monte, Technical Services Specialist – 503-742-4678

**BACKGROUND:**

The County is currently in the process of constructing the Clackamas River Bridge Project on Springwater Road, identified as Clackamas County project #22085. Clackamas River Water ("CRW") originally contracted with the County to construct a water line which will attach to the bridge structure. As of August 10, 2017, CRW has agreed to assume responsibility for constructing the water line.

On January 22, 2015, the County obtained a temporary construction easement (the "Easement") affecting land located at 16300 SE Hwy 224, and described as tax lot 5201 on Clackamas County Assessor's map No. 23E18CB for purposes of completing construction improvements as a part of the project. Since CRW is now assuming responsibility for constructing the water line, it would be efficient to allow CRW to use the existing easement. Use of the easement by CRW would be subject to the terms and conditions of the attached Intergovernmental Agreement and the underlying easement in favor of the County.

County Counsel has reviewed the Intergovernmental Agreement and CRW has approved and executed the same.

**RECOMMENDATION:**

Staff respectfully requests that the Board approve this Intergovernmental Agreement, so that Clackamas River Water may proceed with construction of the water line associated with the Clackamas River bridge construction project.

Respectfully submitted,

Mike Bezner  
Assistant Director of Transportation

**INTERGOVERNMENTAL AGREEMENT BETWEEN CLACKAMAS COUNTY AND CLACKAMAS RIVER WATER RELATED TO THE CLACKAMAS RIVER BRIDGE CONSTRUCTION PROJECT AND A TEMPORARY CONSTRUCTION EASEMENT**

THIS AGREEMENT (this “Agreement”) is entered into by and between Clackamas County, acting through its Department of Transportation and Development (“COUNTY”), a corporate body politic, and CLACKAMAS RIVER WATER (“DISTRICT”), a regional water service provider formed under to ORS Chapter 264, pursuant to ORS Chapter 190 (Cooperation of Governmental Units), collectively referred to as the “Parties” and each a “Party.”

**RECITALS**

WHEREAS, authority is conferred upon local governments under ORS 190.010 to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform;

WHEREAS, the County is currently in the process of constructing the Clackamas River Bridge Project on Springwater Road, identified as Clackamas County project #22085 (the “Project”);

WHEREAS, as part of the Project, the District has contracted with the County to construct a water line which will attach to the bridge structure;

WHEREAS, as of August 10, 2017, the District has agreed to construct the portion of the Project that involves the water line;

WHEREAS, on January 22, 2015, the County obtained a temporary construction easement (the “Easement”) affecting land located at 16300 SE Hwy 224, and described as tax lot 5201 on Clackamas County Assessor’s map No. 23E18CB (the “Property”) for purposes of completing construction improvements as a part of the Project;

WHEREAS, Carver MHC, LLC is the current owner of the Property, and obtained its interest in the land on April 17, 2015. For purposes of this Agreement, Carver MHC, LLC, or any successor in interest shall be referred to herein as the “Property Owner”;

WHEREAS, the Easement was to become effective on the date that the County provided the Property Owner notice that it was proceeding with the work on the Property and was to terminate one year after the effective date, with the option to extend the term of the Easement for three separate terms of one year each in accordance with the terms of the Easement;

WHEREAS, the County provided its notice to the Property Owner on August 30, 2017; and

WHEREAS, the District desires to utilize the Easement to complete construction of the water line, and the County is willing to accommodate the District for purposes of completing construction of the Project, subject to the terms and conditions of this Agreement;

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

1. **Term.** This Agreement shall be effective upon execution, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or August 30, 2021, whichever is sooner.
2. **Obligations of the County.**
  - A. The County hereby assigns its rights, as set forth in the Easement, to the District for the purpose of completing the water line construction improvements as part of the Project.

- B. The County shall keep the District reasonably informed as to any status changes or communication from the Property Owner.
- C. In the event that the County and the District determine that an extension of the Easement term is necessary to complete the water line construction improvements as part of the Project, the County shall exercise its option to extend the Easement term pursuant to the terms of the Easement
- D. The County shall designate a project manager for the Project. The project manager shall be available to coordinate construction activities on the Property and to facilitate any necessary communication with the Property owner. The following individual is hereby designated as the County's project manager for the Project:

Stan Monte  
Clackamas County- Department of Transportation and Development  
150 Beaver Creek Rd.  
Oregon City, OR 97045  
(503) 742-4678  
StanMon@co.clackamas.or.us

**3. Obligations of the District.**

- A. The District agrees to assume responsibility for the County's obligations under the Easement.
- B. The District shall not violate any city, county, state or federal law, ordinance, regulation or order affecting the Property or the District's use thereof.
- C. The District agrees to vacate the Property no later than August 30, 2018.
- D. The District agrees to limit its activities on the Property to that area identified in Exhibit "A" attached hereto and incorporated herein.
- E. The District agrees that no more than six (6) vehicles may be parked on the Property at the same time.
- F. The District agrees that construction activities may only occur between the hours of 7AM to 6 PM, and that no individuals may access the Property before 5 AM, and no individuals shall remain on the Property after 10 PM.
- G. The District agrees to abide by the conditions and restrictions set forth in the removal/fill permit issued to Clackamas County by the Oregon Department of State Lands issued October 31, 2017 as permit no. 42969-RF Renewal.
- H. The District agrees to submit an erosion control plan to the County prior to entry onto the Property.
- I. The District agrees to ensure that there is no unreasonable interference with access to the Property from the adjacent roadway. The District shall maintain the access roadway and agrees to keep the access roadway clear of debris. If the access roadway is damaged, the District agrees to repair the roadway to a condition that existed prior to the damage, at its sole expense.
- J. The District shall not remove any trees, shrubs, brush, paving or other materials, nor construct any improvements, on the Property without the prior written consent of the County, which shall not be unreasonably withheld.



- K. The District shall restore and reseed those areas outside of the access roadway which may be damaged by the District's activities on the Property.
- L. The District shall hold the County harmless for injury to persons or property caused by the District's use of the Easement.
- M. In the event that the District must extend its work on the Property beyond August 30, 2018, the District shall make a request in writing to the County no later than June 30, 2018, to extend the term of the Easement with the Property Owner. In the event subsequent extensions are necessary, the District shall provide a similar written request to the County no later than 60 days prior to expiration of the then current term. The District shall pay to the County the sum of Three Thousand Five Hundred Dollars (\$3,500) for each extension to the easement which is obtained by the County on behalf of the District. The County's consent to any request made by the District for an extension under this section may not be unreasonably withheld.
- N. The District shall designate a project manager for the Project. The project manager shall be available to coordinate construction activities on the Property and to facilitate any necessary communication on behalf of the District. The following individual is hereby designated as the District's project manager for the Project:

Joseph Eskew  
Clackamas River Water  
16770 SE 82<sup>nd</sup> Drive  
Clackamas, OR 97015  
(503) 723-2565  
jeskew@crwater.com

#### 4. **Indemnification.**

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

#### 5. **Termination.**

- A. This Agreement shall terminate immediately upon termination of the Easement between the County and the Property Owner.

- B. Either the County or the District may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within five (5) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such five (5) day period, this provision shall be complied with if the breaching Party begins correction of the default within the five (5) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. The County or the District shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. Nothing herein shall prevent the Parties from meeting to mutually discuss the Project. Each Party shall use best efforts to coordinate with the other to minimize conflicts.
- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

## 6. General Provisions

- A. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- B. **Applicable Law.** The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. **Access to Records.** The Parties acknowledge and agree that each Party, the federal government, and their duly authorized representatives shall have access to each Party's books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.
- E. **Debt Limitation.** This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

- F. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- G. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- H. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- I. **Relationship of the Parties.** No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- J. **No Third-Party Beneficiary.** Neither Party intends that this Agreement benefit, or create any right or cause of action in, or on behalf of, any person or entity other than the County or the District.
- K. **No Assignment.** No Party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of the other Party, which consent may be withheld for any reason. The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties.
- L. **Counterparts.** This Agreement may be executed in any number of counterparts (electronic, facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
- M. **Authority.** Each Party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Agreement.
- N. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

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

**Clackamas County**

**Clackamas River Water**

\_\_\_\_\_  
Chair, Clackamas County Board of  
County Commissioners

\_\_\_\_\_  
President, Clackamas River Water

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

DRAFT

Approval of Previous Business Meeting Minutes:

December 21, 2017

## **BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES**

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

<http://www.clackamas.us/bcc/business.html>

**Thursday, December 21, 2017 – 10:00 AM**

**Public Services Building**

**2051 Kaen Rd., Oregon City, OR 97045**

**PRESENT:** Commissioner Jim Bernard, Chair  
Commissioner Sonya Fischer  
Commissioner Ken Humberston  
Commissioner Paul Savas  
Commissioner Martha Schrader  
Housing Authority Commissioner Paul Reynolds

### **CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

*Chair Bernard recess as the Board of County Commissioners and convened as the Housing Authority Board for the next two items. He introduced Housing Authority Commissioner Paul Reynolds.*

### **I. HOUSING AUTHORITY CONSENT AGENDA**

1. In the matter of Writing off Uncollectible Accounts for the Second Quarter of Fiscal Year 2018

#### **MOTION:**

Commissioner Reynolds: I move we approve the Housing Authority consent agenda.

Commissioner Fischer: Second.

all those in favor/opposed:

Commissioner Reynolds: Aye.

Commissioner Fischer: Aye.

Commissioner Humberston: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 6-0.

*Chair Bernard adjourned as the Housing Authority Board and re-convened as the Board of County Commissioners for the remainder of the meeting.*

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

1. Clackamas County Dog Services Presentation  
Kristine Wallace and Sarah Holcombe, Dog Services presented a PowerPoint regarding the success of the Dog Services department in 2017; they thanked the Board for promoting the dog of the week at the Business meetings.

*~Board Discussion~*

### **III. CITIZEN COMMUNICATION**

<http://www.clackamas.us/bcc/business.html>

1. Brainard Brower, Oregon City – Spoke regarding a speed zone issue and safety concerns
2. Les Poole, Gladstone – Spoke on concerns regarding roads, traffic, tolling and jobs
3. Pacific Stensland, Portland – Requested that the Board create legislation for net neutrality and that they work for a free and open internet for all County residents

*~Board Discussion~*



#### **IV. CONSENT AGENDA**

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

#### **MOTION:**

Commissioner Schrader: I move we approve the consent agenda.

Commissioner Humberston: Second.

~Board Discussion~

all those in favor/opposed:

Commissioner Fischer: Aye.

Commissioner Humberston: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye

Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

#### **A. Health, Housing & Human Services**

1. Approval of Agreement No. 17-18515 with Ride Connection, Inc. to Provide Funding for Vehicle Maintenance of Ride Connection owned Vehicles Operated by Community-based Clackamas County Transportation Consortium Members – *Social Services*
2. Approval of Agreement No. 17-18529 with Ride Connection, Inc. to Provide Funding for Rides Provided by Volunteer Drivers under the Ride Together & Vets Drive Vets Programs – *Social Services*
3. Approval of an Agency Services Contract with Northwest Housing Alternatives, Inc. for Warming Center Services – *Social Services*
4. Approval of a Sub-recipient Grant Agreement with The Father's Heart Street Ministry for Warming Center Services – *Social Services*
5. Approval of Amendment No. 1 to the Service Agreement with Passport To Languages Partnering with Clackamas County Health Centers Division for Interpreter Services for the Clackamas County Health Centers Division Patients – *Health Centers*
6. Approval of Amendment No. 1 to an Intergovernmental Agreement with Clackamas County Community Corrections to Provide Behavioral Health Services to Community Corrections Consumers – *Health Centers*

#### **B. Department of Transportation & Development**

1. Approval of an Amendment to the 2016-2017 Intergovernmental Agreement with Metro to Implement the Fiscal Year 2017-2018 Annual Waste Reduction and Recycle at Work Program
2. Board Order No. **2017-154** Approving the Subcontract between Bliss Sanitary Service Inc., and Hoodview Disposal & Recycling Inc. for Drop Box Services
3. Board Order No. **2017-155** Approving the Transfer of Solid Waste Collection Franchise (70-4-C) held by Mel Deines Sanitary Service, Inc. to Hoodview Disposal & Recycling Inc.

#### **C. Finance Department**

1. Approval of Amendment No. 10 of the Contract Documents with Earthworks Landscape Service, Inc. for Landscape Maintenance Services for Clackamas County - *Procurement*

**D. Elected Officials**

1. Approval of Previous Business Meeting Minutes – *BCC*

**E. Disaster Management**

1. Approval of FY2017 Emergency Management Performance Grant between Clackamas County and the State of Oregon

**F. Technology Services**

1. Approval to Purchase Microsoft Enterprise Licenses from SHI International - *Procurement*

**V. DEVELOPMENT AGENCY**

1. Approval of a Contract with Tapani, Inc. for Construction of the Boyer Drive Extension Project - *Procurement*
2. Consent to Assignment of Ownership Interest in a Portion of the Clackamas Town Center Property from GGP-TRS, LLC and Clackamas Mall, LLC to Dakota Legacy Group, LLC

**VI. COUNTY ADMINISTRATOR UPDATE**

<http://www.clackamas.us/bcc/business.html>

**VII. COMMISSIONERS COMMUNICATION**

<http://www.clackamas.us/bcc/business.html>

**MEETING ADJOUNED – 11:00 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.** [www.clackamas.us/bcc/business.html](http://www.clackamas.us/bcc/business.html)



Karen Brisbin  
Justice Of The Peace

CLACKAMAS COUNTY JUSTICE COURT

11750 SE 82ND AVE SUITE 0 | HAPPY VALLEY, OR 97086

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

A Resolution Appointing Justices of the Peace Pro Tempore for the  
Clackamas County Justice of the Peace District

<b>Purpose/ Outcome</b>	Approval of the Resolution Appointing Justices of the Peace Pro Tempore will appoint pro tempore judges to ensure that the Justice Court can continue to hold court during those periods of time when Justice of the Peace Brisbin is temporarily absent or otherwise unable to hold court.
<b>Dollar Amount and Fiscal Impact</b>	Pro Tempore judges are paid at an hourly rate of \$47.22, plus .545 cents per mile for travel to and from the court building.
<b>Funding Source</b>	Justice Court Budget
<b>Duration</b>	1 year
<b>Previous Board Action/ Review</b>	Annual appointment per ORS 51.260
<b>Strategic Plan Alignment</b>	Provide continuity of judicial service to the public
<b>Contact Person</b>	Laura Anderson, Administrative Services Supervisor, 503-794-3816
<b>Contract Number</b>	N/A

**BACKGROUND:** When Justice of the Peace Brisbin is temporarily absent or otherwise unable to hold court, justices of the peace pro tempore ensure that the Justice Court can continue to hold court. Pro tempore judges adjudicate violation or civil cases set for first appearance/ arraignment or contest hearing/ trial. The individual recommended for appointment is a Clackamas County attorney in good standing with the Oregon State Bar and meets the eligibility requirements set by Oregon Revised Statutes.

The Resolution has been reviewed and approved by County Counsel.

**RECOMMENDATION:** Staff recommends approval of this Resolution appointing two Clackamas County attorneys to serve as justice of the peace pro tempore during the next year.

Respectfully submitted,

Karen Brisbin  
Justice of the Peace

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

A RESOLUTION APPOINTING A  
JUSTICE OF THE PEACE PRO  
TEMPORE FOR THE CLACKAMAS  
COUNTY JUSTICE OF THE PEACE  
DISTRICT



Resolution No. \_\_\_\_\_

**WHEREAS**, The Clackamas County Justice of the Peace District (the Justice Court) was created by the Board of County Commissioners (BCC) in February 2009, and Justice of the Peace Karen Brisbin was subsequently appointed by the Governor and has been elected to serve a six (6) year term; and

**WHEREAS**, Pursuant to ORS 51,260(2), the BCC may appoint a justice of the peace pro tempore to ensure that the Justice Court can continue to hold court during those periods of time when Judge Brisbin is temporarily absent or otherwise unable to hold court; and

**WHEREAS**, Daniel P. Woram and Roxanne Scott are eligible to serve as a justice of the peace pro tempore being a citizen of the United States, a resident of Oregon for at least three years, and has maintained a residence or principal office in Clackamas County for at least one year immediately prior to appointment; and

**WHEREAS**, The BCC, upon the recommendation of Judge Brisbin, finds it is in the public interest to appoint Daniel P. Woram and Roxanne Scott, to serve as a justice of the peace pro tempore in Clackamas County; and

**NOW, THEREFORE, IT IS HEREBY RESOLVED**, that the Board of County Commissioners appoints Daniel P. Woram and Roxanne Scott, to serve as a justice of the peace pro tempore for the Clackamas County Justice of the Peace District. Daniel P. Woram and Roxanne Scott shall have the authority to preside over court proceedings as is necessary during times when Judge Brisbin is temporarily absent or otherwise unable to hold court.

**IT IS FURTHER RESOLVED**, that the appointment of Daniel P. Woram and Roxanne Scott shall be for a term not to exceed one year from the date of this resolution. The appointment, however, is subject to termination in the sole discretion of the BCC at any time prior to the expiration of the term.

**Dated** this 18<sup>th</sup> day of January 2018

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Chair


\_\_\_\_\_  
Recording Secretary

UNDERTAKING FOR  
JUSTICE OF THE PEACE PRO TEM

Whereas Daniel Patrick Woram has been duly appointed justice of the peace pro tem in and for the Clackamas County Justice of the Peace District on the 29<sup>th</sup> day of December, 2017, we, Wm. Bruce Shepley and Heather Peckham, hereby undertake that if Daniel Patrick Woram shall not faithfully pay over according to law all moneys that shall come into his hands by virtue of such office, then we, or either of us, will pay to the State of Oregon the sum of \$2,500.

Dated this 29<sup>th</sup> day of December, 2017.

  
\_\_\_\_\_  
Surety #1

  
\_\_\_\_\_  
Surety #2

Approved on behalf of the Clackamas County Board of Commissioners by:

\_\_\_\_\_  
Jim Bernard, Chair

UNDERTAKING FOR  
JUSTICE OF THE PEACE PRO TEM

Whereas Roxanne R. Scott has been duly appointed justice of the peace pro tem in and for the Clackamas County Justice of the Peace District on the \_\_\_\_ day of

\_\_\_\_\_, 2017, we, Daniel Paul Neese and Matthew B. Duckworth

hereby undertake that if Roxanne R. Scott shall not faithfully pay over according to law all moneys that shall come into his hands by virtue of such office, then we, or either of us, will pay to the State of Oregon the sum of \$2,500.

Dated this 22 day of December, 2017.

  
\_\_\_\_\_  
Surety #1

  
\_\_\_\_\_  
Surety #2

Approved on behalf of the Clackamas County Board of Commissioners by:

\_\_\_\_\_  
Jim Bernard, Chair





Dave Cummings  
Chief Information Officer

## Technology Services

121 Library Court Oregon City, OR 97045

January 18, 2018

Board of County Commissioners  
Clackamas County

Members of the Board:

Amendment to the Service Level Agreement  
between Clackamas Broadband eXchange and the State of Oregon

<b>Purpose/Outcomes</b>	The Department of Administrative Services (DAS) is requesting to connect the Department of Environmental Quality (DEQ) in Clackamas County. Clackamas Broadband eXchange (CBX) would like authorization to provide service to DAS and then, if approved, amend the State of Oregon's existing Service Level Agreement (SLA) to include this new circuit.
<b>Dollar Amount and Fiscal Impact</b>	The non-recurring cost (NRC) for this new fiber lateral will be \$14,355.00 and the monthly recurring cost (MRC) is \$255.00 or \$3,060.00 annually.
<b>Funding Source</b>	The funding source for the expansion of the CBX fiber network will be contributed from the CBX budget and then reimbursed by DAS.
<b>Duration</b>	Effective upon signature by the board the existing SLA will be amended.
<b>Previous Board Action</b>	Board previously approved CBX to build and maintain a dark fiber network for the Summit Learning School.
<b>Strategic Plan Alignment</b>	1. Build a strong infrastructure. 2. Build public trust through good government.
<b>Contact Person</b>	Dave Devore (503)723-4996

**BACKGROUND:**

CBX is proposing to construct a new fiber lateral within Clackamas County for DAS. Upon approval by the Clackamas County Board and DAS, CBX would then amend the existing SLA with DAS. Once all documents have been signed, CBX would then construct the fiber lateral following Clackamas County procurement rules.

**RECOMMENDATION:**

Staff respectfully recommends approval to submit the quote for construction and the amendment to the existing SLA with DAS. Staff further recommends the Board delegate authority to the Technology Services Director to sign agreements necessary in the performance of this agreement.

This amendment agreement has been reviewed and approved by County Counsel.

Sincerely,

Dave Cummings  
CIO Technology Services

**AMENDMENT #2 (Two) to  
INTERGOVERNMENTAL AGREEMENT # 107-55434-14  
BETWEEN CLACKAMAS COUNTY AND THE STATE OF OREGON**

This is Amendment # 2 (Two) (“Amendment”) to Intergovernmental Agreement No. 107-55434-14, effective November 18, 2013, as amended (“Agreement”) between the State of Oregon acting by and through the Department of Administrative Services, Procurement Services on behalf of the Office of the State Chief Information Officer, Enterprise Technology Services (“Customer”), and Clackamas County (“County”).

The parties hereby agree that:

1. Paragraph 5(b) of the Agreement is hereby deleted and replaced in its entirety with:

(b) This Agreement is effective upon the date all approvals necessary by law have been obtained and the Agreement is signed by all the parties (“Effective Date”). This Agreement may be terminated with thirty (30) days’ notice as herein provided. The Agreement is effective through **June 30, 2019**, unless amended or terminated. Customer, at its option, may by amendment renew the Agreement for subsequent years, at the County’s then-current rate schedule, provided, however, that the entire term of the Agreement, including all renewals, will not be more than ten (10) years from the Effective Date. Customer shall send County written notice of its intent to renew the Agreement at least thirty (30) days prior to the end of the current term.

2. Appendix A to the Agreement is hereby deleted in its entirety and replaced with the new Appendix A that is dated 09/28/2017 and attached hereto.

3. Paragraph 22. Notice, is hereby deleted in its entirety and replaced in the **Notice to the Customer** portion:

**Notice to the Customer**

Laurie Goetz  
Enterprise Technology Services  
Department of Administrative Services  
530 Airport Rd. SE  
Salem, OR 97301  
(503) 373-1714  
[Laurie.Goetz@oregon.gov](mailto:Laurie.Goetz@oregon.gov)

With a copy to:  
Sandy Wheeler  
Deputy Administrator  
Enterprise Technology Services  
Department of Administrative Services  
530 Airport Rd. SE  
Salem, OR 97301  
(503) 378-8207  
[Sandy.Wheeler@oregon.gov](mailto:Sandy.Wheeler@oregon.gov)

And:  
Stefani Tew, OPBC, CPPB  
Procurement Specialist  
1225 Ferry Street SE

Salem, OR 97301  
Phone: (503) 373-0384  
[Stefani.Tew@oregon.gov](mailto:Stefani.Tew@oregon.gov)

4. Except as expressly amended above, all other terms and conditions of Agreement are still in full force and effect.

Certification: The individual signing on behalf of County hereby certifies and swears under penalty of perjury: (a) the number shown on this form is County's correct taxpayer identification; (b) County is not subject to backup withholding because (i) County is exempt from backup withholding, (ii) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified County that County is no longer subject to backup withholding; (c) s/he is authorized to act on behalf of County, s/he has authority and knowledge regarding County's payment of taxes, and to the best of her/his knowledge, County is not in violation of any Oregon tax laws (including, without limitation, the following pursuant to OAR 150-305.385(6)-(B): For purposes of this certification, "Oregon tax laws" means the tax laws names is ORS 305.380 (4), including without limitation the state inheritance tax, gift tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax., 9-1-1 emergency communications tax, the homeowners and renters property tax relief program and local taxes administered by the Department of Revenue (Multnomah County Business Income Tax, Lane Transit District Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan District Self-Employment Tax; (d) County is an independent contractor as defined in ORS 670.600; and (e) the supplied County data is true and accurate.

**IN WITNESS WHEREOF**, the parties hereto have approved and executed the above Amendment to the Agreement.

**Clackamas County**

By (signature): \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**State of Oregon, acting by and through the Department of Administrative Services,  
Enterprise Technology Services**

By (signature): \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**State of Oregon, acting by and through the Department of Administrative Services,  
Procurement Services**

By (signature): \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Agreement Approved: Oregon Department of Justice  
Via email from Karen Johnson on 11-30-2017  
Pursuant to ORS 291.047 & OAR 137-045-0030**

**APPENDIX A**  
**09/28/2017**  
**SERVICE AND RATE SCHEDULE**

**1. Specified Services and Rates**

The following are the sites, services, and rates agreed to by County and Customer at which Customer shall be provided services on the fiber optic network during the term of the Agreement. It is understood by both parties that service to these sites shall be provided for the rates below, subject to any rate increases otherwise applicable in accordance with terms herein. It is further understood that, during the term of the Agreement, Customer may add services to existing or new locations, or change services and/or locations, but that such changes are subject to the rates for such additional services.

**2. Construction, Installation and Activation**

For construction, installation and activation work and provision of fiber optic network components, the County shall charge Customer nonrecurring charge(s) as specified in Section 5 of Appendix A. All facilities constructed under this Agreement and Appendix A shall be owned, operated, and maintained by the County.

**3. Service Changes and Conversions**

Both parties agree that Customer may add or change services during the term of the Agreement, but that such changes are subject to applicable rates, and upgrade and downgrade charges.

**4. Annual Recurring Charges**

	<b>From</b> (Connecting Point A:Site Name & Address)	<b>To</b> (Connecting Point B:Site Name & Address)	<b>Service</b>	<b>Monthly Rate (\$)</b>
1	Clackamas Development Services Building 2051 Kaen Rd Oregon City, OR 97045	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
2	Oregon ME Office 13309 SE 84 <sup>th</sup> Ave Clackamas, OR 97015	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
3	ODOT Maintenance 325 SW 2 <sup>nd</sup> Ave Estacada, OR 97023	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
4	ODOT/OSP Government Camp 90300 E Highway 26 Government Camp, OR 97028	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
5	Unemployment Office 506 High St	Clackamas Education Service District	One Pair (two) dark	

	Oregon City, OR 97045	13455 SE 97th Ave. Clackamas, Oregon 97015	fibers	\$255.00
6	Sandy DMV 37395 Highway 26 Sandy, OR 97055	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
7	OLCC Office 9079 SE McLoughlin Blvd Portland, OR 97222	Clackamas Education Service District (North Route) 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
8	OLCC Warehouse 1777 SE Milport Rd Milwaukie, OR 97222	Clackamas Education Service District (South Route) 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
9	DEQ 9350 SE Clackamas Rd Clackamas, OR 97015	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00

**5. Nonrecurring Charges**

	<b>From</b> (Connecting Point A:Site Name & Address)	<b>To</b> (Connecting Point B:Site Name & Address)	<b>Service</b>	<b>Amount (\$)</b>
1	Clackamas Development Services Building 2051 Kaen Rd Oregon City, OR 97045	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction	\$0.00
2	Oregon ME Office 13309 SE 84 <sup>th</sup> Ave Clackamas, OR 97015	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction (complete)	\$855.00
3	ODOT Maintenance 325 SW 2 <sup>nd</sup> Ave Estacada, OR 97023	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction (complete)	\$0.00
4	ODOT/OSP Government Camp 90300 E Highway 26 Government Camp, OR 97028	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction (complete)	\$3,285.00
5	Unemployment Office 506 High St Oregon City, OR 97045	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction (complete)	\$4,387.00
6	Sandy DMV 37395 Highway 26 Sandy, OR 97055	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction (complete)	\$25,000.00
7	OLCC Office 9079 SE McLoughlin Blvd Portland, OR 97222	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction (complete)	\$38,364.00
8	DEQ 9350 SE Clackamas Rd Clackamas, OR 97015	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction	\$14,355.00



**6. Late Payment Interest**

Customer will be charged interest for any payment made after its due date (thirty (30) days after receipt of invoice). Interest is charged at a rate of two-thirds of one percent (2/3 of 1%) per month, or eight percent (8%) annually, on any installment not paid within forty-five (45) days after receipt.

**7. Annual Consumer Price Index (CPI) Adjustments**

All fees and minimum charges are subject to Consumer Price Index (CPI) adjustments, to be applied annually. The amount of the fees and charges specified herein may increase annually by a percentage up to the change in the Consumer Price Index (CPI) for urban wage earners and clerical workers for the Portland, Oregon metropolitan region for the prior year, unadjusted for seasonal variations, as determined by the Bureau of Labor Statistics of the Department of Labor and as published in such Bureau of Labor Statistics Detailed Report.

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**OFFICE OF COUNTY COUNSEL**

**PUBLIC SERVICES BUILDING**  
 2051 KAEN ROAD OREGON CITY, OR 97045

January 18, 2018

Board of County Commissioners  
 Clackamas County

Members of the Board:

Authorization to enter into contingent fee contract  
 retaining with D'Amore Law Group, Whaley Law Group,  
 and Law office of Thomas L. Young  
to evaluate and initiate opioids litigation

**Stephen L. Madkour**  
 County Counsel

**Kathleen Rastetter**  
**Chris Storey**  
**Scott C. Ciecko**  
**Alexander Gordon**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Christina Thacker**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
 Assistants

<b>Purpose/Outcomes</b>	Retain outside counsel to explore viability of legal liability for the manufacturing, marketing and prescribing of opioids.
<b>Dollar Amount and Fiscal Impact</b>	Fee agreement provides for no out of pocket cost to the county. There will be staff time involved in compiling data to aid the lawyers in evaluating the case.
<b>Funding Source</b>	County general fund
<b>Duration</b>	Until contract terminated or litigation concluded
<b>Previous Board Action</b>	The Board had a study session on November 21, 2017 and authorized retaining Tom D'Amore and D'Amore Law Group, PC to represent the County's interests.
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Build public trust through good government</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Stephen L. Madkour, County Counsel

**BACKGROUND:**

The number of prescriptions written and filled, and the frequency of overdoses and deaths attributed to opioids has increased to the point where it has been referred to as a national epidemic. This epidemic has imposed significant costs upon public entities that provide health care services and addiction treatment. Moreover, the costs are spread throughout a variety of county functions, such as

1. Spending on opioids through own health plans and workers compensation programs;
2. Ambulance/emergency services responses to overdoses;
3. Naloxone;
4. Addiction treatment programs (grants, services, including in our jail, medication assisted treatment-including suboxone);
5. Emergency room visits for overdoses;
6. Treatment of infants born suffering from neonatal abstinence, or withdrawal;
7. Drug courts;

8. Coroner/medical examiner;
9. Drug disposal or takeback programs; and
10. Foster care placements for children of opioid addicts.

Clackamas County, through department heads and its Board of Commissioners, has expressed concerns with the financial burdens this epidemic has imposed on the County and its ability to carry out regular County operations and the provision of services. The County is exploring its ability to recover these expenses from those that manufacture and distribute opioids. To aid in that evaluation and assessment, the County seeks the services of outside counsel that have expertise in these types of cases.

The Board recently heard a presentation by D'Amore Law Group. Afterwards, the Board agreed to retain the services of the D'Amore Law Group. The attached Contingent Fee Contract memorializes the terms of that agreement. The terms of the contingent fee contract state that the law firm will retain 25% of recovery. If there is no recovery, the County pays nothing. Moreover, the County will not be out of pocket for any litigation costs. Those costs will be borne by the law firm. The case will require the County to devote staff time to provide support for any claims.

**RECOMMENDATION:**

Staff recommends that the Board approve the contingent fee agreement and authorize the Chair to sign on behalf of Clackamas County.

Respectfully submitted,



Stephen L. Madkour  
County Counsel

Attachment: Contingent Fee Contract

**CONTINGENT FEE CONTRACT**

**WITNESSETH:**

**WHEREAS, CLACKAMAS COUNTY, OREGON** ("CLIENT") wishes to determine the feasibility of CLIENT bringing an action against the manufacturers, distributors, providers, and/or others responsible for the sale, marketing, and distribution of opioids, opiates, and similar pharmaceutical drugs for damages to the CLIENT arising out of aggressive marketing and distribution of said drugs; and

**WHEREAS,** the CLIENT understands based upon the pendency of similar litigation pending in the United States that the CLIENT may have various viable causes of action under state and/or federal law for its damages; and

**WHEREAS,** the CLIENT wishes to retain outside counsel to investigate and, if appropriate, commence litigation for CLIENT's damages, with all work to be performed on a contingency fee basis and without the CLIENT advancing costs and expenses for such litigation; and

**WHEREAS,** the CLIENT has decided that it wishes to engage D'AMORE LAW, WHALEY LAW FIRM, and LAW OFFICE OF THOMAS L. YOUNG (collectively, "Attorneys"), to investigate the viability of and if appropriate prosecute an action against such manufacturers;

**NOW THEREFORE,** in consideration of the covenants, promises, and consent herein contained, the parties agree as follows; and

1. Attorneys, for the consideration herein provided, agree to represent the CLIENT in connection with investigating and if appropriate bringing an action for CLIENT's damages. At a minimum Attorneys shall provide the following services: work with CLIENT's personnel to determine the costs that the CLIENT has incurred as a result of the over-prescription of opioids;



determine the viable causes of action available to the CLIENT; and determine which if any potential defendants that should be targeted in a lawsuit. Attorneys will, on behalf of the CLIENT, bring a lawsuit against those parties identified by Attorneys, subject to approval of CLIENT. At all times throughout the pendency of the investigation and, if appropriate, litigation, CLIENT shall supervise and control all aspects of work done by Attorneys and have the authority to override any decision made by Attorneys, including but not limited to whether or not to sue, which causes of actions to advance, and which defendants to sue.

2. This Agreement shall cover the period from NOVEMBER 28, 2017 until the termination of the litigation or termination of the legal services rendered hereunder, whichever is sooner. This Agreement may be terminated by the CLIENT upon at least 10-days' notice, and in the event of such termination, neither party shall have any further rights against the other, except that in the event of a recovery by the CLIENT against the defendants subsequent to termination, Attorneys shall have rights in the nature of *quantum meruit* to recover fees, costs and expenses reasonably allocable to its work prior to termination. In the event of termination of this Agreement for any reason, Attorneys shall immediately return to the CLIENT all materials and documents of every kind and nature, including but not limited to the CLIENT's documents, data, information and computer disks, relating to this Agreement and the above-mentioned matter.

3. a. There is no fee for this representation unless a monetary recovery acceptable to the CLIENT is obtained by Attorneys in favor of the CLIENT, whether by suit, settlement, or otherwise. Attorneys agree to advance all costs associated with prosecuting the litigation. Subject to paragraph 3 (b), below, and in consideration of the legal services to be rendered by Attorneys, the CLIENT agrees that the maximum contingent attorneys' fees for this representation shall be as follows:

- i. 25% of pre-complaint recovery;

- ii. 25% after filing of complaint;
- iii. 25% of recovery after commencement of trial

Upon the application of the applicable fee percentage to the gross amount recovered, and that dollar amount set aside as attorneys' fees to Attorneys, the amount remaining shall first be reduced by the costs and disbursements that have been advanced by Attorneys, and that amount shall be remitted to Attorneys. By way of example only, if the litigation is settled after rulings on motions to dismiss (section 3 (a) (ii), above) for the gross amount of \$1,000,000.00, and the approved costs and disbursements are \$100,000.00, then the fee to Attorneys shall be \$250,000, the costs amount of \$100,000 shall be deducted from the balance, and the net recovery to the CLIENT shall be \$650,000. The costs and disbursements which may be deducted from a monetary recovery acceptable to the CLIENT that is obtained by Attorneys include and are not limited to the following, without limitation: court fees, process server fees, transcripts fees, expert witness fees, courier service fees, appellate printing fees, necessary travel expenses of attorneys to attend depositions, interview witnesses and the like, and other appropriate out-of-pocket expenses, as determined in the reasonable discretion of the CLIENT. In the event that any settlement, final judgment, or other resolution of the action results in a monetary recovery to the CLIENT that is less than the amount of the costs incurred and/or disbursements made by Attorneys, the CLIENT shall not be required to pay Attorneys any more than the sum of the full monetary recovery.

b. No monies shall be paid to Attorneys for any work performed, costs incurred or disbursements made by Attorneys in the event no monetary recovery to the CLIENT has been obtained by Attorneys. In the event of a loss at trial due to an adverse jury verdict or a dismissal of the lawsuit by the court, no monies shall be paid to the Attorneys for any work performed,



costs incurred or disbursements made by the Attorneys. In such an event, neither party shall have any further rights against the other.

4. Attorneys may, at their own expense, and from the contingent fee interest stated herein, use or associate other attorneys in the representation of the aforesaid claims of CLIENT. CLIENT understands that any one or more of those attorneys with the Attorneys, may work on CLIENT's case, and CLIENT agrees that no particular attorney is undertaking the representation of CLIENT by virtue of this Agreement. CLIENT further understands that in such an instance, the "attorneys" will share any fees that may be generated in this matter and the CLIENT will be advised of the fee division prior to any final distribution, as required.

5. Attorneys shall report to and keep the CLIENT fully and currently informed as to its activities under this Agreement at least monthly and more often if requested by the CLIENT.

6. It is expressly agreed that Attorneys' status hereunder is that of an independent contractor and the Attorneys shall not be considered an employee of the CLIENT for any purpose.

7. All professional work performed under this Agreement shall be performed by Attorneys in accordance with existing professional standards. Attorneys shall exert their best efforts and use their best judgment in review and analysis and preparation of opinions and memoranda and representation in such proceedings.

8. Attorneys shall not have the power to enter into any agreement binding the CLIENT or otherwise obligating the CLIENT without the prior written approval of the CLIENT. This includes the authority of the CLIENT to accept or reject any final settlement amount after receiving advice of Attorneys.

9. Attorneys have advised CLIENT and CLIENT acknowledges and is aware that Attorneys either represent or will represent other parties, including other governmental entities,

in connection with similar or related claims. Attorneys have advised and CLIENT acknowledges that potential conflicts of interest could arise. Attorneys shall have an ongoing obligation to disclose to CLIENT the existence of any such adverse interests whether existing or potential so long as Attorneys are retained on behalf of CLIENT. The determination as to when a conflict exists shall ultimately be made by CLIENT after full disclosure is obtained.

10. The parties to this Agreement hereby certify that, other than the funds provided in this Agreement and other valid agreements with the CLIENT, there is no known relationship within the third degree of consanguinity, life partner, or business, commercial, economic, or financial relationship between the parties, the signatories to this Agreement, and any partners, members, directors, or shareholders of any party to this Agreement.

11. Attorneys shall maintain lawyers' professional liability insurance with limits of not less than \$1,000,000 per claim. It is further expressly agreed that Attorneys shall hold the CLIENT harmless from any liability arising from any negligence, act or omission of Attorneys with respect to this Agreement or any terms thereof.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflicts of law rules.

13. It is expressly agreed that this Agreement represents the entire agreement of the parties, that all previous understandings are merged in this Agreement, and that no modification of this Agreement shall be valid unless written and executed by both parties

14. It is expressly agreed that if any term or provision of this Agreement, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be

affected thereby; and every other term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

15. CLIENT acknowledges that it has carefully read and fully understands all of the provisions of this agreement, and that it has the capacity to enter into this agreement. Each party and the person signing on behalf of each party, represents that the person signing this agreement has the authority to execute this document and thereby bind the party hereto on whose behalf the person is signing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the latest date written below.

**CLACKAMAS COUNTY OREGON**

**D'AMORE LAW GROUP**

\_\_\_\_\_  
By:

\_\_\_\_\_  
By:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**WHALEY LAW FIRM**

**LAW OFFICE OF THOMAS L.  
YOUNG**

\_\_\_\_\_  
By:

\_\_\_\_\_  
By:

Date: \_\_\_\_\_

Date: \_\_\_\_\_