

September 7, 2023

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of Revenue Intergovernmental Agreement with the Gladstone School District for an embedded Mental Health Specialist at Gladstone High School. Agreement value is \$76,500.00 for 9 months. Funding is through Gladstone School District. No County General Funds are involved.

Previous Board Action/Review	November 24, 2021, 20211124.IVbv, approved. November 23, 2022, 20221123 I.D.2, approved. Briefed at Issues – September 6, 2023		
Performance Clackamas	1. Individuals and families in need are healthy and safe. 2. Ensure safe, healthy, and secure communities.		
Counsel Review	Yes	Procurement Review	No
Contact Person	Sarah Jacobson	Contact Phone	503-201-1890

EXECUTIVE SUMMARY: Under this agreement, Clackamas County Health Centers Division (CCHCD) will provide behavioral health staff to be located at Gladstone High School approximately 3.5 days a week during the school year. The work to be conducted by behavioral health staff is three-fold. They will provide consultation and education for school counselors and staff, screening, and coordination of care for students, and provide direct behavioral health therapy. This work directly fulfills the purpose of the Health Centers Division to serve our community, reduce barriers to health, and improve lives.

RECOMMENDATION: Staff recommends the Board approve intergovernmental agreement #11223.

Respectfully submitted,

Rodney A. Cook

Rodney A. Cook
Director of Health, Housing & Human Services

For Filing Use Only

Healthy Families. Strong Communities.

#11223

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND GLADSTONE SCHOOL DISTRICT**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County, acting by and through its Health Centers Division ("County"), a political subdivision of the State of Oregon, and Gladstone School District ("Agency"), an Oregon municipal corporation, collectively referred to as the "Parties" and each a "Party."

RECITALS

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

Agency desires to contract with County to embed one or more Mental Health Specialists at Gladstone High School to provide mental health and behavioral health services.

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

TERMS

1. **Term.** This Agreement shall be effective upon execution and shall expire on June 30, 2024.
2. **Scope of Work.** The County agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").
3. **Consideration.** The Agency agrees to pay County, from available and authorized funds, a sum not to exceed seventy six thousand five hundred dollars (\$76,500.00) for accomplishing the Work required by this Agreement.
4. **Payment.** Agency shall pay County \$76,500.00 in a single lump sum within ten (10) business days of the effective date of this Agreement. Payment shall be submitted to:

Clackamas Health Centers Division
2051 Kaen Road, #367
Oregon City, OR 97045

5. **Representations and Warranties.**
 - A. *Agency Representations and Warranties:* Agency represents and warrants to County that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Agency enforceable in accordance with its terms.
 - B. *County Representations and Warranties:* County represents and warrants to Agency that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.

C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

6. Termination.

A. Either the County or the Agency may terminate this Agreement at any time upon thirty (30) days written notice to the other party.

B. Either the County or the Agency may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period. Upon termination for breach, each Party shall have all rights and remedies available to it at law, in equity, or under this Agreement.

C. The County or the Agency 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. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

7. 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 Agency, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.

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

8. **Insurance.** The Agency agrees to furnish the County with evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of Clackamas County, and their officers, elected officials, agents, 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 this Agreement. If self-insured, Agency shall provide documentation to the County of Agency's self-insured status by completing the Self-Insurance Certification form provided by the County.

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

A. Ben DeGiulio or their designee will act as liaison for the County.

Contact Information:

bdgiulio@clackamas.us

Bob Stewart or their designee will act as liaison for the Agency.

Contact Information:

bob@gladstone.k12.or.us

10. General Provisions.

A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and Agency that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.

- B. Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. Access to Records.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the County’s authorized representatives’ access to the Records at reasonable times and places for purposes of examining and copying.
- E. Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- F. Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- G. Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.

- H. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- I. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- J. **No Third-Party Beneficiary.** Agency and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- K. **Subcontract and Assignment.** Agency shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- L. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- M. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (E), (F), (G), (H), (J), (M), (P), (R), and (S) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- N. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- O. **Time is of the Essence.** Agency agrees that time is of the essence in the performance of this Agreement.
- P. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- Q. **Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However,

Agency shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

- R. **Confidentiality.** Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.
- S. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

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

Clackamas County

Gladstone School District

Chair, Board of County Commissioners



Bob Stewart, Superintendent

Date



Date

Approved as to form:



08/22/2023

Exhibit A

SCOPE OF WORK

A. Parties' Responsibilities:

1. In consideration of Agency's payment of the \$76,500, County will provide one or more Clackamas County Health Centers Division mental health therapists to be embedded in Gladstone High School for at least 3.5 total work days per week for the duration of this Agreement.
2. County will provide mental health services regardless of the individual's insurance status. This may include providing services and billing a private insurer, not billing at all, or some other arrangement as determined by County.
3. Agency will provide adequate space within the Gladstone High School for County's therapist to provide behavioral health services.
4. The County's therapist will provide the following services: staff communications, referral, mental health consults, mental illness assessments, treatment planning, therapy, follow-up, care-coordination & navigation with other supports for student well-being. Services are further described in Subsection B, below.
5. Before expiration of the Agreement, the Parties agree to review whether to renew the Agreement, amend the Agreement, identify areas of improvement, and any other issues related to the same.

B. Services Narrative

In partnership with the Gladstone High School, Clackamas Health Centers will provide a Mental/Behavioral Health (MH/BH) staff to be located at the High School approximately 3.5 days a week during the school year. The work the County's therapist would be providing is three-fold: consultation/education for school counselors and staff, screening and coordination for students, and providing direct MH Therapy. The therapist is solely the employee of the County. Supervision, discipline, wages, hours, and other terms and conditions of employment are and shall remain solely County's responsibility.

Consultation work: The County's therapist may, at Agency's request and subject to availability of resources, as determined by County in its sole discretion, provide general consultation services to school staff, primarily school counselors, to discuss challenging cases, general approaches, and resources that can be used to support students. If Agency requests consultation work, County and Agency will negotiate, in good faith, to draft an agreed upon scope of work that details the kind of consultation requested together with an agreed upon presentation schedule. Consultation work shall not create a client/patient relationship between Agency and County.

Education work: if requested by Agency, and subject to availability of resources, as determined by County in its sole discretion, County staff will provide general information to classrooms regarding basic mental health, self-care, social emotional supports, and overall well being.

Therapy work: County's therapist will be available at Agency's Gladstone High School to provide mental and behavioral health care ("MH/BH care") to students requesting such care. MH/BH care may include a mental health intake, treatment planning, on-going individual or family therapy, or group therapy. County will perform screenings of students requesting MH/BH care.

Agency understands and agrees that County is subject to the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations ("HIPAA"), which include the Standards for the Privacy of Individually Identifiable Health Information (the "Privacy Rule"), the Standards for Electronic Transactions, and the Security Rule (45 C.F.R. Parts 160-64), and the Privacy provisions (Subtitle D) of the Health Information Technology for Economic and Clinical Health Act and its implementing regulations (the "HITECH Act") (collectively, and as amended from time to time, the "HIPAA Rules"), and the rules and regulation set forth in 42 C.F.R. Part 2, as well as any other applicable federal or state privacy law. As such, Agency understands and agrees that County may not share certain protected health information regarding County's patients unless allowed under applicable law.