

November 4, 2021

Members of the Board:

Approval of an Intergovernmental Agreement with the Oregon Department of Human Services (ODHS) for licenses and access to the Homeless Management Information System (HMIS). Agreement is to allow the County to bill ODHS \$7,596, actual costs of licenses.  
No County General Funds are involved.

<b>Purpose/Outcome</b>	Allow Clackamas County to bill DHS for the cost of licenses and access to the Homeless Management Information Systems (HMIS) database. DHS must use this system to track the success of a homeless housing program and assist with Coordinated Housing Access (CHA).
<b>Dollar Amount and Fiscal Impact</b>	\$7,596 / no fiscal impact, zero net - the amount billed to HMIS is the same amount Clackamas County currently pays to the database software company for these licenses.
<b>Funding Source</b>	H3S will be billing ODHS for actual cost of license and access. No County General Funds are involved.
<b>Duration</b>	Effective upon signature to September 30, 2025
<b>Previous Board Action/Review</b>	N/A
<b>Strategic Plan Alignment</b>	1. Ensuring access to safe, stable housing 2. Build public trust through good government
<b>Counsel Review</b>	Date of County Counsel review: April 12, 2021 County Counsel: Andrew Naylor
<b>Procurement Review</b>	Was the item process through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> If no, provide brief explanation: Intergovernmental Agreement
<b>Contact Person</b>	Abby Ahern 971/349-0375
<b>Contract No.</b>	10383

**BACKGROUND:**

HMIS is the centralized databased used throughout Oregon to track outcomes for homeless programs and services. H3S currently contracts with Wellsky, the HMIS software company, to administer this database for Clackamas County. Several H3S Divisions and many community non-profits use the system and contract with H3S for access. The cost charged by Wellsky is passed on to those holding licenses for use of the system.

ODHS has a need to access the Homeless Management Information Systems (HMIS) database to assist ODHS clients in accessing housing services and to participate in data tracking for the Foster Youth to Independence (FYI) program.

**RECOMMENDATION:**

Staff recommends approval of this IGA, and authorizes the Chair to sign on behalf of the County.

*Healthy Families. Strong Communities.*

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

www.clackamas.us

Respectfully submitted,

*Mary Rumbaugh*

Rodney A. Cook

Director

Health, Housing and Human Services (H3S)

# Contract Transmittal Form

## Health, Housing & Human Services Department

H3S Contract #: 10383

Division: CD

Subrecipient

Board Order #:

Contact: Anderson, Pamela

Revenue

Program Contact:

Amend # \$

Anderson, Pamela

Procurement Verified

Aggregate Total Verified

Non BCC Item

BCC Agenda

Date: Thursday, November 11<sup>th</sup> 2021

**CONTRACT WITH:** Department of Human Services

**CONTRACT AMOUNT:** \$7,596.00

### TYPE OF CONTRACT

Agency Service Contract

Memo of Understanding/Agreement

Construction Agreement

Professional, Technical & Personal Services

Intergovernmental Agreement

Property/Rental/Lease

Interagency Services Agreement

One Off

### DATE RANGE

Full Fiscal Year

4 or 5 Year

Upon Signature

9/30/2025

Biennium

Other

Retroactive Request?

### INSURANCE What insurance language is required?

Checked Off  N/A

**Commercial General Liability:**

Yes

No, not applicable

No, waived

If no, explain why:

**Business Automobile Liability:**

Yes

No, not applicable

No, waived

If no, explain why:

**Professional Liability:**

Yes

No, not applicable

No, waived

If no, explain why:

Approved by Risk Mgr \_\_\_\_\_

Risk Mgr's Initials and Date

### BOILER PLATE CHANGE

Has contract boilerplate language been altered, added, or deleted?

No

Yes (must have CC approval-next box)

N/A

(Not a County boilerplate - must have CC approval)

If yes, what language has been altered, added, or deleted and why: \_\_\_\_\_

### COUNTY COUNSEL

Yes by: Andrew Naylor

Date Approved: Monday, April 12, 2021

OR

This contract is in the format approved by County Counsel.

### SIGNATURE OF DIVISION REPRESENTATIVE:

*Pamela Anderson*

Date: Oct. 18, 2021

H3S Admin  
Only

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

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

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

## AGREEMENTS/CONTRACTS

- X New Agreement/Contract  
Amendment/Change Order Original Number

**ORIGINATING COUNTY**

**DEPARTMENT: Health, Housing Human Services  
Community Development**

**PURCHASING FOR: Contracted Services**

**OTHER PARTY TO**

**CONTRACT/AGREEMENT: Department of Human Services**

**BOARD AGENDA ITEM**

**NUMBER/DATE:**

*11/4/21*  
**DATE: 11/4/2021**

**PURPOSE OF**

**CONTRACT/AGREEMENT:** This Agreement allows for Clackamas County to bill (invoice) Department of Human Services for the cost of licenses and access to the Homeless Management Information System (HMIS) database.

**H3S CONTRACT NUMBER: 10383**

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
CLACKAMAS COUNTY  
AND STATE OF OREGON DEPARTMENT OF HUMAN SERVICES**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County ("County"), a political subdivision of the State of Oregon, and the State of Oregon by and through the Oregon Department of Human Services (DHS) ("Agency").

**RECITALS**

1. Oregon Revised Statutes (ORS) 190.110 confers authority upon the parties to enter into this Agreement.
2. The City of Portland manages a Homeless Management Information System (HMIS), and County is a key stakeholder and an authorized organizational participant in the HMIS. The HMIS includes software of a third party contractor, currently operating as WellSky, also referred to as ServicePoint.
3. County has an agreement with the City of Portland to access the HMIS software, and has authority under its agreement with the City of Portland to allow Agency users access and use of the HMIS and the data in the HMIS under County's HMIS agreement.
4. The parties have authority to exchange and access the information in the HMIS under ORS 411.116, and DHS may use and disclose information pursuant to OAR 407-014-0020, and ORS Chapter 190 and the HMIS Data and Technical Standard Final Rule, 69 FR 45887.

County and Agency hereby agree as follows:

**AGREEMENT**

1. **Term.** This Agreement is effective upon execution by both parties and expires on September 30, 2025, unless terminated earlier in accordance with its terms.
2. **Purpose**
  - A. The purpose of this Agreement is to provide a basis for a cooperative working relationship for gathering, entering and reporting on program participation data using the HMIS referenced in the Recitals.
  - B. DHS provides direct services to help clients achieve self-sufficiency, which includes accessing housing services. In this capacity, DHS is in need of a database system that will help clients and DHS staff track system usage and program participant data. County wishes to provide DHS access to the HMIS.
3. **Consideration.** Agency agrees to pay County for HMIS database access costs as set forth in Section 5 of this Agreement. County shall submit to Agency an annual invoice itemizing all HMIS database access costs. Payments are due to County within 30 days. Of receipt of the invoice, subject to Agency's review and approval. County shall not submit invoices for, and Agency will not pay, any amount in excess of the maximum compensation amount set forth below.
4. **Terms of Access**
  - A. Under this Agreement DHS will:
    1. Supervise usage of the HMIS by its employees and contractors under this Agreement.
    2. Monitor data quality and completeness for compliance with system-wide and funder data standards.
    3. Sign and abide by the terms of the NW Social Service Connections/Clackamas County Participant Agreement, attached hereto as ATTACHMENT A.
    4. Ensure all users sign and comply with all the terms of the NW Social Services Connection/Clackamas

County User Agreement, as attached hereto as ATTACHMENT A.

**B. Under this Agreement County will:**

1. Set up DHS' accounts and manage administrative settings in the HMIS database.
2. Provide at least one data entry software license for the HMIS database; additional data entry software licenses may be purchased as provided in Section 5.A of this Agreement.
3. Make available report-viewing licenses for purchase as provided in Section 5.A. of this Agreement.
4. Provide trainings, in conjunction with other county divisions, as needed, for:
  - (1) pre-developed reports for measuring progress and outcomes, (2) ensuring DHS is kept abreast of changes to the HMIS database and updated versions, (3) increasing the skills of users.
5. Provide technical support for software.

**5. Budget and Financial**

- A. DHS shall pay County a one-time fee to purchase license rights to access the HMIS database, in the name of County for DHS' use as a participant under County's agreement with the City of Portland, and will pay related annual fees for support and technical assistance, as shown in Section 6 below, during the term of this Agreement. Agency may request additional HMIS and report-viewing licenses be purchased in the name of County for DHS' use under this Agreement at any time during the term of this Agreement, by written request and at the rates shown in the Cost Table. If added, Agency will thereafter also annually pay County for all additional HMIS and Report-viewer license fees for the agreed-upon period.
- B. County will bill Agency annually on April 1<sup>st</sup> of each year, with payment due by June 1<sup>st</sup>.
- C. The annual fees for support and technical assistance are dependent on the amount charged to County under its agreement with the City of Portland for the HMIS. The City of Portland provides information annually in advance to County about cost changes. The range in fees in the Cost Table below reflects the anticipated maximum increase in costs over the term of the Agreement. If actual prospective fees are not within the range(s) set below, the parties may amend this Agreement to update the revised agreed upon fees.

**6. Cost Table**

<b>Fiscal Year (10/1-9/30)</b>	<b>HMIS License Purchase (one-time only per user)</b>	<b>Annual support fee (paid per user license)</b>	<b>Annual report-viewer license</b>	<b>Annual cost of technical assistance</b>	<b>Subtotal for 1 user license</b>	<b>Subtotal for 4 user licenses and 1 report-viewer license</b>
<b>2020-2021</b>	\$200/user	\$105/user license	none	\$161/user license	\$466/year	N/A
<b>2021-2022</b>	\$200-\$250/user to add	\$105-150/user license	\$100-150/ report viewer license	\$161-\$200/user license	\$266-\$355/year	\$1,964-\$2,570/year

<b>2022-2023</b>	\$200-\$250/user to add	\$105-150/user license	\$100-150/ report viewer license	\$161-\$200/user license	\$266-\$355/ year	\$1,164-\$1,520/ year
<b>2023-2024</b>	\$200-\$250/user to add	\$105-150/user license	\$100-150/report viewer license	\$161-\$200/user license	\$266-\$355/ year	\$1,164-\$1,520/ year
<b>2024-2025</b>	\$200-\$250/user to add	\$105-150/user license	\$100-150/report viewer license	\$161-\$200/user license	\$266-\$355/ year	\$1,164-\$1,520/ year
<b>Totals</b>					\$1,530-\$1,886 (2020-2025)	\$5,456-\$7130 (2020-2025)
<b>MAXIMUM AMOUNT PAYABLE</b>					\$7,596 (first year with one license, all subsequent years with 4 licenses, one report-viewer license.	

The State of Oregon’s payment obligations under this Agreement are conditioned upon Agency receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement.

**7. Representations and Warranties.**

- A. 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, is a valid and binding obligation of Agency enforceable in accordance with its terms.
- B. Agency represents and warrants that the making and performance by Agency of this Agreement (a) have been duly authorized by all necessary action by Agency and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Agency is a party or by which Agency may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Agency of this Agreement, other than approval by the Department of Justice if required by law.
- C. 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, is a valid and binding obligation of County enforceable in accordance with its terms.
- D. County represents and warrants that the making and performance by County of this Agreement (a) have been duly authorized by all necessary action by County and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County’s

charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.

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

**8. Termination.**

- A. Either party may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
- B. Either party 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 will give the other party written notice of the breach and of the party's intent to terminate. If the breaching party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. County or Agency will not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. Either party may terminate this Agreement in the event it fails to receive expenditure authority sufficient to allow that party, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Work under this Agreement is prohibited or the party is prohibited from paying for such work from the planned funding source.
- E. Any termination of this Agreement will not prejudice any rights or obligations accrued to the parties prior to termination.

- 9. Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

- A. With respect to a Third Party Claim for which the State is jointly liable with the County (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable



considerations. The relative fault of the State on the one hand and of the County on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

- B. With respect to a Third Party Claim for which the County is jointly liable with the State (or would be if joined in the Third Party Claim), the County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the County on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the County on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.
10. **Notices; Contacts.** Either party may change its contact information, or its invoice or payment address, by giving prior written notice to the other party. Except as otherwise expressly provided in this Agreement, any other communications between the parties or notices to be given must be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to County or Agency at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed by regular mail will be deemed received and effective five days after the date of mailing. Any communication or notice delivered by email will be deemed received and effective on the day recipient generates a receipt of the successful transmission, if receipt was during normal business hours of the recipient, or on the next business day if receipt was outside normal business hours of the recipient. Notwithstanding the forgoing, to be effective against the other party, any notice transmitted by email must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery will be deemed effective when actually delivered to the addressee.

Abby Ahern or their designee will act as liaison for the County.

**Contact Information:**

13930 Gain Street Oregon City, OR 97045  
[HACCSHS@clackamas.us](mailto:HACCSHS@clackamas.us)

Cristin Guitron or their designee will act as liaison for the Agency.

**Contact Information:**

315 S. Beaver Creek Road Oregon City, OR 97045  
[CRISTIN.GUITRON@dhsosha.state.or.us](mailto:CRISTIN.GUITRON@dhsosha.state.or.us)

**11. General Provisions.**

- A. **Oregon Law and Forum.** This Agreement is governed by and to be construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement must be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives 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. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.

- B. **Compliance with Applicable Law.** Both parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Agreement. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County and Agency, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Nothing in this Agreement requires County or Agency to act in violation of state or federal law or the Constitution of the State of Oregon.
- 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.** Each party 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 government accounting principles. All other Records will 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. **Intellectual Property.** Except as otherwise expressly provided in this Agreement, or as otherwise required by state or federal law, Agency will not own the right, title or interest in any intellectual property created or delivered by County or its employees, agents or contractors in connection with this Agreement, and County will not own the right, title, or interest in any intellectual property created or delivered by Agency or its employees, agents, or contractors in connection with this Agreement.
- F. **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. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.
- G. **Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the

Agreement did not contain the particular term or provision held to be invalid.

- H. **Integration, Amendment, Waiver; Order of Precedence.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the parties on the matter subject matter within; there are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.
1. No waiver, consent, modification or change of terms of this Agreement binds 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, is effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement does not constitute a waiver by such party of that or any other provision.
  2. In the event of a conflict between these terms and conditions, Attachment A, and Attachment B, any attachments referenced in this Agreement, the conflict will be resolved in the following order of precedence: these terms and conditions, Attachment A, Attachment B, then referenced documents. No updated, superseding, additional, or replacement versions of referenced documents adopted after the execution date of this Agreement may add, detract, or materially modify this Agreement unless this Agreement is amended via written amendment executed by the parties to include the referenced document.
- I. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and will be disregarded in construing or interpreting any of its provisions.
- J. **Independent Contractor.** The parties hereto are an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one party may be deemed to be a representative, agent, employee or contractor of the other party for any purpose. Nothing herein is intended, nor may 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.
- K. **No Third-Party Beneficiaries.** 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 may 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.
- L. **Subcontract and Assignment.** Neither party may assign or transfer its interest in this Agreement without prior written approval of the other party. Any such assignment or transfer, if approved, is subject to such conditions and provisions as the parties may deem necessary. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns. No approval by Agency of any assignment or transfer of interest may be deemed to create any obligation of Agency in addition to those set forth in the Agreement.
- M. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which is an original, all of which constitutes the same instrument.
- N. **Survival.** Provisions of this Agreement that survive Agreement expiration or termination include provisions relating to warranties, contribution, intellectual property, subcontract and assignment, choice of law and venue, and confidentiality, as well as the provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination does not extinguish or prejudice

either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.

- O. **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.
- P. **Successors in Interest.** The provisions of this Agreement are binding upon and inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- Q. **Force Majeure.** Neither Agency nor County is 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 and County shall make all reasonable efforts to remove or eliminate such 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.

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

**State of Oregon Department of Human  
Services (Oregon DHS)**  
315 S. Beaver Creek Road  
Oregon City, OR 97045

**Clackamas County**

\_\_\_\_\_  
Seth Lyon, District Manager

\_\_\_\_\_  
Tootie Smith, Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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

Approved as to form

Andrew Naylor on April 12, 2021  
County Counsel

**Attachment A**

**NW Social Service Connections / Clackamas County  
PARTICIPATION AGREEMENT**

This Agreement is entered into on \_\_\_/\_\_\_/\_\_\_\_ (to be completed on final signature to this document) between NW Social Service Connections CMIS/HMIS: Clackamas County and \_\_\_\_\_ (hereinafter “Organization” or “Participant”).

NW Social Service Connections (NWSSC) is the administrative entity that governs a multiple key stakeholder<sup>1</sup> implementation of Management Information System (CMIS/HMIS) used to record and share information among service-providers on services provided to homeless and near homeless Clients. The NWSSC CMIS/HMIS system of choice is ServicePoint. ServicePoint (trademarked and copyrighted by Bowman Systems) is an information system that provides standardized assessment of a Client’s needs, creates individualized service plans and records the use of housing and services which communities can use to determine the utilization of services of participating Service Providers, identify gaps in the local service continuum and develop outcome measurements.

The City of Portland, Portland Housing Bureau (PHB) is the owner and operator of the NWSSC CMIS/HMIS and serves as the NWSSC System Administrator and custodian of data in the CMIS/HMIS. The lead organization for NWSSC is the City of Portland, Portland Housing Bureau (PHB) in partnership with key stakeholder<sup>1</sup> organizations with PHB Intergovernmental Agreements. The NWSSC System Administrators are ServicePoint-dedicated program staff from PHB, additionally each of the key stakeholder<sup>1</sup> organizations may have identified staff functioning as local ServicePoint System Administrators.

Any documentation, agreements, policies and forms created for use with NW Social Service Connections CMIS/HMIS must incorporate all NW Social Service Connections CMIS/HMIS policies, agreements, and documents and be no less restrictive.

In this agreement, “Participant” is Organization, “participant” is any other entity that uses ServicePoint; “Client” is a consumer of services. Participant is aware that other entities participate in ServicePoint.

1. **Operating Policies:** Participant agrees to follow and comply with all HMIS Data Standards and NWSSC Policies and Procedures, of which may be modified by NWSSC CMIS/HMIS System Administrators.
2. **Technical Support:** Bowman Systems is providing hosting services for NW Social Service Connections and Service Point. Bowman provides hosting, maintenance, monitoring, and administration for servers. The System Administrators and Bowman will provide continuing technical support as related to the ServicePoint system within budgetary constraints. Participating agencies will identify staff that will use the system and receive user licenses. If the agreement is terminated, PHB and NWSSC System Administrators will revoke user licenses. Bowman Systems shall operate and maintain the network server, software, and any other network or communication devices at the host site, which is necessary for the proper functioning of the ServicePoint system. Participant shall provide and maintain its own computers and connection to the Internet.

<sup>1</sup>Clackamas County is a key stakeholder via Intergovernmental Agreement with the City of Portland Housing Bureau.

3. Computers: Security for data maintained in NW Social Service Connections CMIS/HMIS depends on a secure computing environment. Computer security is adapted from relevant provisions of the Department of Housing and Urban Development's (HUD) "Homeless Management Information Systems (HMIS) Data and Technical Standards Notice". Agencies are encouraged to directly consult that document for complete documentation of HUD's standards relating to CMIS/HMIS.
  - <https://www.hudexchange.info/programs/hmis/hmis-data-and-technical-standards/> PHB and Community Stakeholders may add additional standards and will provide notice(s) to Participants.
4. Training: The Organization is responsible for training related to basic computer skills as well as confidentiality and ethics training. The System Administrators shall assure the provision of training of necessary Participant staff in the use of ServicePoint. The System Administrators will provide training updates, as necessary and reasonable due to staff changes and changes in technology.
5. Data: Participant shall not be denied access to Client data entered by Participant's users. Participant is bound by all restrictions placed upon the data by the Client of any Participant. Participant must diligently record and take all other appropriate actions to assure ServicePoint includes and reflects all restrictions or release of sharing records the Client has requested. Participant must also keep on file all hard copy Release of Information forms. A Client may not be denied access to their own records.

Participant shall not knowingly enter false or misleading data under any circumstances. Participant shall provide the System Administrators with the appropriate ServicePoint Data. Violation of this section by Participant is a material violation of this agreement.

If this agreement is terminated, the System Administrators shall provide to Participant an electronic copy of its Client data. A hardcopy form will be available, upon written request, within seven (7) working days. Nonetheless, the System Administrators and remaining participants shall continue a right of use of all Client data previously entered by a terminating participant, including Organization. This use is subject to restrictions requested by the Client and may be used only in furtherance of the purpose of the NWSSC CMIS/HMIS application.

6. Confidentiality of Information: Participant understands that participation in the NWSSC CMIS/HMIS system may make confidential information in the Client Profile available to other participants with the hard copy ROI signed by the client. It is the responsibility of each participant to observe all applicable laws and regulations regarding Client confidentiality. Only Client specific data approved for release by the Client and properly recorded by Participant shall be accessible to other participants. Participant will provide staff training in privacy protection, for its ServicePoint users.

If a Client withdraws consent for sharing of information (release of information), Participant remains responsible to ensure that the Client's information is restricted at the Client Profile level and therefore unavailable to other participants. If Participant terminates this Agreement Participant must notify the NWSSC CMIS/HMIS and lead organization System Administrators of the withdrawal. System Administrators and remaining participants shall continue a right of use of all Client data previously entered by the terminating Participant. This use is subject to restrictions requested by the Client and may be used only in furtherance of the purpose of the NWSSC CMIS/HMIS application.

Aggregate data may be made available by CMIS/HMIS lead organizations to other entities for funding or planning purposes pertaining to providing services to the homeless. However, data released by the CMIS/HMIS lead organizations must never directly identify individual Clients.

De-identified data sets may be used for unduplicated counting, planning, and research activities.

All data will be archived from ServicePoint by the System Administrators no later than seven years after being entered or after last being modified.

7. Transferability: No right, privilege, license, duty, or obligation, whether specified or not in this agreement or elsewhere, can be transferred or assigned, whether or not done voluntarily or done through merger, consolidation, or in any other manner, unless the System Administrators or ServicePoint Policy Committee grants approval.
8. Mutuality: The terms of this agreement are intended to apply, amongst and between each individual participant, PHB, and the key stakeholders.
9. Limitation of Liability and Indemnification: Neither party to this Agreement shall assume any additional liability of any kind due to its execution of this Agreement or participation in the NWSSC CMIS/HMIS system. It is the intent of the parties that each party shall remain liable, to the extent provided by law, regarding its own acts and omissions; but that no party shall assume additional liability on its own behalf or liability for the acts of any other person or entity, through participation in ServicePoint. The parties specifically agree that this agreement is for the benefit of the parties only and this Agreement creates no rights in any third party.
10. Limitation of Liability: PHB and Key Stakeholders<sup>1</sup> shall not be liable to any member participant for any cessation, delay or interruption of services, nor for any malfunction of hardware, software or equipment to the extent that any such event is beyond reasonable control. If such an event continues for more than 30 days, Participant may terminate this agreement immediately upon written notification to the System Administrators, PHB, Key Stakeholders<sup>1</sup>, and other participants. If Participant terminates thereby, the parties shall seek mutual resolution to any dispute.
11. Disclaimer of Warranties: The System Administrators make no warranties, expressed or implied, including the warranties or merchantability and fitness for a particular purpose, to Participant or any other person or entity as to the services of the ServicePoint system or to any other matter.
12. Term and Termination: This Agreement shall remain in-force until revoked in writing by either party with 30 days advance written notice. This Agreement may be amended or superseded by any additional or alternative agreements agreed upon in writing by the parties.
13. Amendments and Waivers: This agreement cannot be altered or modified except in writing signed by the parties. No waiver of any right under this agreement is effective except by a writing signed by the parties. No waiver or breach shall be considered a waiver or breach of any other provision neither of this Agreement nor of any subsequent breach or default. Each participant shall get notice from the System Administrators of any breach or waiver of a breach.
14. Notices: All notices between participants and System Administrators, under this Agreement must be in writing.
15. Scope of Agreement: This Agreement, together with the HMIS Policy and Procedure and its addendums is the entire agreement between the parties and is binding upon the parties and any

permitted successors or assigns.

16. Applicable Law: This Agreement is governed by and subject to the laws of the State of Oregon.
17. Display of Notice: Pursuant to the notice published by the Department of Housing and Urban Development (HUD) on July 30, 2004, Participant will prominently display the Notice to Clients of Uses & Disclosures (Privacy Notice to Clients) in its program offices where intake occurs and will take appropriate steps to ensure that all Clients whose information is entered into or accessed from CMIS/HMIS, read and understand the contents of the Notice. The Notice will be substantially in the form of the **Notice to Clients of Uses & Disclosures**, except that (a) where Organization's treatment of information is materially limited by other applicable laws or requirements, the Participant's Notice must reflect the more stringent requirements, and (b) Participant will update its Notice whenever NWSSC CMIS/HMIS updates and distributes a new form of Notice to Clients of Uses & Disclosures. Participant will provide a written copy of the Participant's Notice then in effect to any Client who requests it and will provide a copy of such Notice to all Clients who are asked to sign a Client Consent/Release of Information Form. Participant will maintain documentation of compliance with these notice requirements by, among other things, maintaining copies of all Notices it uses and the dates upon which they were first used.
18. Data Quality and Training Plan: Participant agrees to participate in the Clackamas County CoC's Data Quality and Training Plan which will be updated annually by the System Administrator.
19. Submission of Reports: Participant agrees to submit specific HMIS reports on a regular basis as detailed in its Agreement with Clackamas County.



ASSURANCE

\_\_\_\_\_ (Participant) assures that the following fully executed documents will be on file and available for review.

- The Organization's Confidentiality Policy.
- The Organization's Grievance Policy, including a procedure for external review.
- The Organization's official Privacy Notice for NWSSC/HMIS clients.
- Executed hard copy Client Release of Information forms.
- Executed User Agreement for all NWSSC System Users.
- A current copy of the NWSSC/Clackamas Policy and Procedures.

\_\_\_\_\_  
Signature of Organization Director

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

\_\_\_\_\_  
Date (mm/dd/YYYY)

**EXTENT OF AGREEMENT**

This Agreement represents the terms and conditions as to its subject matter between the parties and supersedes all prior representations, negotiations or agreements, whether written or oral. This Agreement is part of the Portland Housing Bureau IGA #30007185.

**Clackamas County  
Public Services Bldg.  
2051 Kaen Rd.  
Oregon City, OR 97045**

**PARTICIPANT**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**Tootie Smith, Chair**

\_\_\_\_\_  
*Date (mm/dd/YYYY)*

\_\_\_\_\_  
*Signature* *Date*

\_\_\_\_\_  
*Printed Name* *Title*

Attachment B  
USER AGREEMENT

(Agreement to follow HUD Standards for Data, Privacy, and Security)

*(put an X before the agency you are employed with)*

- |   |  |
|---|--|
| <input type="checkbox"/> The Inn  | <input type="checkbox"/> Clackamas County Behavioral Health Division           |
| <input type="checkbox"/> Housing Authority of Clackamas County                                | <input type="checkbox"/> Clackamas County Community Development Division       |
| <input type="checkbox"/> Northwest Housing Alternatives                                       | <input type="checkbox"/> Clackamas County Social Services Division             |
| <input type="checkbox"/> Clackamas County Women's Services                                    | <input type="checkbox"/> Clackamas County Children, Youth, and Family Services |
| <input type="checkbox"/> The Father's Heart Street Ministry                                   | <input type="checkbox"/> Division  |
| <input checked="" type="checkbox"/> State of Oregon Department of Human Services (Oregon DHS) |  |

Employees, volunteers, and any other persons with access to the ServicePoint/Homeless Management Information System are subject to certain requirements regarding use of the HMIS. The HMIS contains a range of personal and private information on individuals and all such information must be treated carefully and professionally by all who access it.

Requirements for use of the HMIS include:

- The User shall comply with all data standards and policies and procedures.
- Each Agency must post a privacy notice describing its policies and practices for the processing of personal identifying information. The User must offer to explain any information that the individual does not understand and must provide a copy of its privacy notice to any individual upon request.
- Informed client or guardian consent, as documented by a hard copy Release of Information form, is required for any verbal, hard copy, or electronic data sharing or disclosure of personal identifying information to anyone outside of your Agency.
- Confidential information entered in or obtained from the HMIS is to remain confidential, even if your relationship with your Agency changes or ends for any reason.
- If a client or guardian chooses not to sign a Release of Information form, no information should be disclosed to an outside Agency.
- Only general, non-confidential information is to be entered in the Client Notes section of the Client Profile and Exit Notes section of Exit Data in ServicePoint. Confidential information, including TB diagnosis, HIV diagnosis or treatment information, domestic violence and mental and/or physical health information, is not permitted to be entered in these sections.
- Only client records pertaining to user's assigned work duties will be accessed.
- Only individuals that exist as clients under the Agency's jurisdiction may be entered into the HMIS.
- Personal User Identification and Passwords must be kept secure and are not to be shared.
- Users are required by the HUD standards to use a password-protected screensaver.
- When leaving the HMIS computer unattended, steps must be taken to ensure data security. It is best to log off the ServicePoint system so that private information will not be visible to others, especially to clients or the public.

- **ServicePoint shall only be accessed from the Agency’s network, desktops, laptops, minicomputers and any other electronic devices that are web capable. In rare exceptions, access from remote locations may be permitted after application and approval by Agency and System Administrators.**
- **Should the User download client identifiable information in any format, he or she will securely store and/or dispose of all electronic and hard copy information in a manner to protect the client’s personal information. At a minimum this will require the use of strong password protection (electronic protection), preferably including encryption, and/or secure, locked storage space (hard copy protection).**
- **Client records are not to be inactivated in ServicePoint by anyone other than the System Administrator. If, for some reason, an Agency needs to inactivate a client record, Agency Administrator should contact the Clackamas County HMIS System Administrators to explore if the record should be made inactive.**
- **Misrepresentation of the client by entering known inaccurate information is prohibited. Discriminatory comments based on race, color, religion, national origin, ancestry, handicap, age, sex, and sexual orientation are not permitted in the HMIS. Profanity and offensive language are not permitted in the HMIS.**
- **The HMIS is to be used for business purposes only. Transmission of material in violation of any United States Federal or State of Oregon regulations or laws is prohibited and includes material that is copyrighted, legally judged to be threatening or obscene, and considered protected by trade secret. The HMIS will not be used to defraud the Federal, State, or local government or an individual entity or to conduct any illegal activity.**
- **Any unauthorized access or unauthorized modification to HMIS computer system information or interference with normal system operations may result in immediate suspension of your access to the HMIS and may jeopardize your long term HMIS access.**
- **This agreement may be superseded by any additional or alternative agreements.**

**Failure to comply with the provisions of this Agreement is grounds for immediate termination of your HMIS ServicePoint access. Your signature below indicates your willingness to comply with all of the requirements of this Agreement. There is no expiration date for this Agreement.**

\_\_\_\_\_

**User Signature**

\_\_\_\_\_

**Date**

\_\_\_\_\_

**User Printed Name**

November 4, 2021

Board of County of Commissioners  
Clackamas County

Members of the Board:

Approval of a Sub-recipient Agreement with Northwest Housing Alternatives to Provide Homeless Shelter Services Funded with a HUD Emergency Solutions Grant of \$58,746  
No County General Funds Involved

<b>Purpose/ Outcome</b>	The Emergency Solutions Grant (ESG) program is designed to: improve existing homeless shelters; provide funds to operate emergency shelters; provide essential social services to homeless individuals and; provide homeless prevention and rapid re-housing assistance.
<b>Dollar Amount and Fiscal Impact</b>	Emergency Solutions Grant (ESG) funds of \$58,746 as a grant.
<b>Funding Source</b>	U.S. Department of Housing and Urban Development ESG 2021-22 funds <b>No County General Funds</b> are included in this Agreement
<b>Duration</b>	July 1, 2021 to June 30, 2022
<b>Previous Board Action/ Review</b>	April 8, 2021 approval of the 2021 One-Year Action Plan which included a funding recommendation of \$58,746 of ESG funds for the Annie Ross House Homeless Shelter.
<b>Strategic Plan Alignment</b>	Increase self-sufficiency for our clients. Ensure safe, healthy and secure communities.
<b>County Review</b>	The Sub-recipient Agreement was reviewed and approved by County Counsel AN on September 27, 2021.
<b>Procurement Review</b>	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. Item is a Sub-recipient Agreement that was processed through Finance Grant Management
<b>Contact Person</b>	Mark Sirois, Manager - Community Development: 503-655-8359
<b>Contract No.</b>	Sub-recipient Agreement 22-017 (H3S #10390)

**BACKGROUND:** The Community Development Division of the Health, Housing and Human Services Department requests the approval of a Sub-recipient Agreement for eligible operating and maintenance expenditures for the Annie Ross House Homeless Shelter in Clackamas County, OR. In November of 2019 Northwest Housing Alternatives (NHA) applied for Emergency Solutions Grant (ESG) funding to operate a homeless shelter in Clackamas County. NHA was awarded 2 years of funding for FY 2020 and FY 2021. Each year a new Sub-recipient Agreement is signed.

**PROJECT OVERVIEW:** The Annie Ross House Homeless Shelter to provide homelessness prevention and shelter services among individuals and families who are homeless or receiving homelessness assistance.

It is expected that the funding under this ESG contract will assist approximately 60 homeless families with shelter services during the program year.

*Healthy Families. Strong Communities.*

**RECOMMENDATION:** We recommend the signature approval of this Sub-recipient Agreement.

Respectfully submitted,

*Mary Rumbaugh*

Rodney A. Cook, Director  
Health, Housing, and Human Services

**CLACKAMAS COUNTY, OREGON  
SUBRECIPIENT GRANT AGREEMENT 22-017**

Project Name: **ESG FY2021**

Project Number: **1792**

This Agreement is between **Clackamas County**, Oregon, acting by and through its  
**Health, Housing and Human Services Department,**  
**Community Development Division** ("COUNTY")  
and **Northwest Housing Services, Inc.** ("SUBRECIPIENT"), an Oregon Nonprofit Organization.

**Clackamas County Data**

Grant Accountant: **Bouavieng Bounnam**

Program Manager: **Amy Council**

Clackamas County – Finance  
2051 Kaen Road  
Oregon City, OR 97045  
Phone 503-742-5422  
bbounnam@clackamas.us

Clackamas County – Community Development  
2051 Kaen Road, Suite 245  
Oregon City, OR 97045  
Phone 971-349-2949  
acouncil@clackamas.us

**Subrecipient Data**

Finance/Fiscal Representative: **Vickie Howard**

Program Representative: **Peter Rosenblatt**

Northwest Housing Alternatives, Inc.  
2316 SE Willard Street  
Milwaukie, OR 97222  
Phone: 503-654-1007 ext.121  
Email: howard@nwhousing.org

Northwest Housing Alternatives, Inc.  
2316 SE Willard Street  
Milwaukie, OR 97222  
Phone: 503-654-1007 ext.121  
Email: rosenblatt@nwhousing.org

DUNS: 180757437

**RECITALS**

1. This Agreement is entered into between COUNTY and SUBRECIPIENT to provide a basis for a cooperative working relationship for the purpose of implementing the Emergency Solutions Grant program ("ESG") contained in Subpart B of Title IV of the Stewart B. McKinney Homeless Assistance Act, and regulations adopted under this Act at 24 CFR Part 576, dated October 26, 2011, as amended, and Public Law 100-77 as amended. The ESG program is designed to: improve existing homeless shelters; provide funds to operate emergency shelters, provide essential social services to homeless individuals; and, provide homeless prevention and rapid re-housing assistance.
2. COUNTY has been awarded ESG funds from the United States Department of Housing and Urban Development ("HUD") authorized by Subpart B of Title IV of the McKinney-Vento Homeless Assistance Act 42 U.S.C. 11371-11378.
3. Funds provided by COUNTY shall be used for eligible operating and maintenance expenditures for the **Annie Ross House** in Milwaukie, OR.
4. In response to a Congressional directive, HUD has required all recipients of Stewart B. McKinney Homeless Assistance Act funds to implement a Homeless Management Information System ("HMIS").

HMIS is a community-wide software solution that is designed to collect client-level information on the characteristics and service needs of youth experiencing homelessness.

NOW THEREFORE, according to the terms of this Subrecipient Grant Agreement (this “Agreement”) the COUNTY and SUBRECIPIENT agree as follows:

### AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse SUBRECIPIENT for expenses approved in writing by COUNTY relating to the Program (described below) incurred no earlier than **July 1, 2021** and not later than **June 30, 2022**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in the attached Exhibit A: Subrecipient Statement of Program Objectives. SUBRECIPIENT agrees to carry out the program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations, including Subpart B of Title IV of the McKinney-Vento Homeless Assistance Act 42 U.S.C. 11371-11378. Furthermore, SUBRECIPIENT shall comply with the requirements of the ESG award number E20-UC-41-0003 that is the source of the grant funding, in addition to compliance with requirements of Title IV of the *Code of Federal Regulations* (“CFR”), Part 24, Sub-Part 576. A copy of that grant award has been provided to SUBRECIPIENT by COUNTY, which is attached to and made a part of this Agreement by this reference. SUBRECIPIENT shall further comply with any requirements, terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal funding requirements.
4. **Grant Funds.** COUNTY’s funding for this Agreement is the Emergency Solutions Grant (Catalogue of Federal Domestic Assistance [CFDA] #: 14.231) issued to COUNTY by the U.S. Department of Housing and Urban Development, Office of Community Planning and Development (Federal Award Identification # E20-UC-41-0003). The maximum, not to exceed, grant amount COUNTY will pay is **\$58,746**. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request. Failure to comply with the terms of this Agreement may result in withholding of payment.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.
6. **Termination.** This Agreement may be suspended or terminated prior to the expiration of its term by:
  - a. Written notice provided by COUNTY resulting from material failure by SUBRECIPIENT to comply with any term of this Agreement, or;
  - b. Mutual agreement by COUNTY and SUBRECIPIENT.
  - c. Written notice provided by COUNTY that HUD has determined ESG funds are no longer available for this purpose.



- d. Written notice provided by COUNTY that it lacks sufficient funds, as determined by COUNTY in its sole discretion, to continue to perform under this Agreement.

Upon completion of improvements or upon termination of this Agreement, any unexpended balances of ESG funds shall remain with COUNTY.

7. **Effect of Termination.** The expiration or termination of this Agreement, for any reason, shall not release SUBRECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:
  - a. Has already accrued hereunder;
  - b. Comes into effect due to the expiration or termination of the Agreement; or
  - c. Otherwise survives the expiration or termination of this Agreement.

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

8. **Funds Available and Authorized.** COUNTY certifies that funds sufficient to pay for this Agreement have been obligated to COUNTY. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 8.
10. **Nonprofit status.** SUBRECIPIENT warrants that it is, and shall remain during the performance of this Agreement, a private nonprofit Organization as defined in the Regulations, including:
  - a. That it is described in Section 501(c) of the Internal Revenue Code of 1954;
  - b. That it is exempt from taxation under Subtitle A of the Internal Revenue Code of 1954;
  - c. That it has an accounting system and a voluntary board; and
  - d. That it practices nondiscrimination in the provision of assistance to the homeless.
11. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
  - a) **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
  - b) **Change in Key Personnel.** SUBRECIPIENT is required to notify COUNTY, in writing, whenever there is a change in SUBRECIPIENT key administrative or programmatic personnel and the reason for the change. Key personnel include but are not limited to: Executive Director, Finance Director, Program Manager, Bookkeeper, or any equivalent to these positions within the organization.
  - c) **Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal government shall be the liability of SUBRECIPIENT. Additionally, SUBRECIPIENT agrees to use funds provided only for eligible activities as described in 24 CFR 576 Subpart B.

- d) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- e) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: Subrecipient Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of the COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.
- f) **Indirect Cost Recovery.** Indirect cost recovery is statutorily unavailable on this award.
- g) **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.
- h) **Payment.** SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit D: Required Financial Reporting and Reimbursement Request.
- i) **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in Exhibit A (2.5).
- j) **Evaluation.** SUBRECIPIENT agrees to participate with COUNTY in any evaluation project or performance report, as designed by COUNTY or HUD, and to make available all information required by any such evaluation process.
- k) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by COUNTY or SUBRECIPIENT, in accordance with Treasurer regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed Exhibit D: Required Financial Reporting and Reimbursement Request on a monthly basis.
- l) **Specific Conditions.** None.
- m) **Grantor Recognition.** SUBRECIPIENT shall ensure recognition of the role of COUNTY in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, SUBRECIPIENT will include reference to the support provided herein in all publications made possible with funds available under this Agreement.
- n) **Supplanting.** The funding made available under this Agreement shall not be utilized by SUBRECIPIENT to reduce substantially (i.e. supplant) the amount of local financial support for shelter and assistance activities below the level of such support prior to the availability of funds under this Agreement.
- o) **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.344—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (Exhibits F, G & H), performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than 90 calendar days after the end date of this agreement. At closeout, SUBRECIPIENT must account for all residual supplies valued over \$5,000 in the aggregate that were purchased with Federal funds authorized by this Agreement. Compensation to the Federal Agency may be required for equipment or residual supplies valued over \$5,000 per 2 CFR 200.313 & 314.
- p) **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number using the Data Universal Numbering

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

- q) **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <http://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- r) **Lobbying.** SUBRECIPIENT certifies (Exhibit C: Lobbying) that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U. S. C. 1352. In addition, SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- s) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. Subrecipients of Federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse (“FAC”) within 9 months from SUBRECIPIENT’S fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from the SUBRECIPIENT’S fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- t) **Monitoring.** SUBRECIPIENT agrees to allow COUNTY access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with 2 CFR 200.334-338. COUNTY, the Federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY’S discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.

COUNTY will monitor the performance of the SUBRECIPIENT against goals and performance standards required herein. Substandard performance as determined by COUNTY will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by SUBRECIPIENT within ten (10) days after being notified by COUNTY, Agreement termination and all funding will end. SUBRECIPIENT must return any unused funds promptly.

- u) **Records to be Maintained.** SUBRECIPIENT shall maintain all records required by the Federal regulations specified in 24 CFR 576.500 that are pertinent to the activities to be funded under this Agreement. Such records shall include but are not limited to:
  1. Client Eligibility Determinations and documentation;
  2. Rental Assistance Agreements;
  3. Service and assistance provided;
  4. Records required to document the acquisition, improvement, use, or disposition of real property acquired or improved with ESG funds; Financial records as required by 24 CFR Part 576 Subpart F.
  5. Client Data. SUBRECIPIENT shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but is not limited to: client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to COUNTY monitors or their designees for review upon request.
  6. Disclosure. SUBRECIPIENT understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with administration of COUNTY's or SUBRECIPIENT's responsibilities with respect to services provided under this Agreement, is prohibited unless consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.
  7. Property Records. SUBRECIPIENT shall maintain real property inventory records which clearly identify properties purchased, improved, or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions.
- v) **Record Retention.** SUBRECIPIENT shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.
- w) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for the ESG, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the Clackamas County, as COUNTY, under those grant documents.
- x) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold RECIPIENT grant funds until compliance is met, terminate this Agreement and all associated amendments, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by SUBRECIPIENT in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to COUNTY at law, in equity, or under this Agreement.
- y) **Program Income.** SUBRECIPIENT shall report monthly all program income as defined at 2 CFR 200.1 generated by activities carried out with ESG funds made available under this Agreement. By way of further limitations, SUBRECIPIENT may use such income during the Agreement period for activities permitted under this Agreement and shall reduce request for additional funds by the amount

of any such program income balances on hand. All unused program income shall be returned to COUNTY at the end of the Agreement period.

## 12. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT. See Exhibit A for additional requirements.
- b) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this Agreement is in excess of \$150,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency.
- c) **Lead-Based Paint.** SUBRECIPIENT agrees to comply with the Lead-Based Paint Poisoning Prevention Act and implementing regulations at 24 CFR Part 35.
- d) **Drug-Free Workplace Act of 1988.** SUBRECIPIENT agrees to comply with the requirements of 24 CFR Part 24 concerning the Drug-Free Workplace Act of 1988 by administering in good faith a policy designed to ensure that its facilities are free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.
- e) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- f) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request County to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement. COUNTY shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- g) **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- h) **Mileage reimbursement.** If mileage reimbursement is authorized in SUBRECIPIENT budget or by the written approval of COUNTY, mileage must be paid at the rate established by SUBRECIPIENT's

written policies covering all organizational mileage reimbursement or at the IRS mileage rate at the time of travel, whichever is lowest.

### 13. Federal and State Procurement Standards

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision. SUBRECIPIENT shall comply with the procurement standards applying to subrecipients under this Federal award contained in 2 CFR 200.318-326.
- b) COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, which are incorporated by reference herein.
- c) SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals ("RFP") for a proposed procurement must be excluded by SUBRECIPIENT from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- d) SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

### 14. General Agreement Provisions.

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its elected officials, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to (1) SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control; or (2) SUBRECIPIENT'S performance under this Agreement including, but not limited to, any claim by a State or Federal funding source that SUBRECIPIENT used funds for an ineligible purpose. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- c) **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:

- 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. This policy(s) shall be primary insurance as respects to COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
- 2) **Abuse and Molestation Insurance.** Abuse and molestation insurance as part of the Commercial General Liability policy in a form and with coverage that are satisfactory to COUNTY 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 SUBRECIPIENT is responsible including but not limited to SUBRECIPIENT and SUBRECIPIENT's employees and volunteers. Policy endorsement's definition of an insured shall include SUBRECIPIENT and SUBRECIPIENT'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.
- 3) **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.
- 4) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish 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 COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement. COUNTY, at its option, may require a complete copy of the above policy.
- 5) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, commissioners, officers, and employees" as an additional insured.
- 6) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days' notice of cancellation provision shall be physically endorsed on to the policy.
- 7) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 8) **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. COUNTY and its officers must be named as an additional insured on the Certificate of Insurance. No Agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY.

The certificate will specify that all insurance-related provisions within the Agreement have been complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.

- 9) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss.
- 10) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.

d) **Subagreements**

- 1) **Approvals.** SUBRECIPIENT shall not enter into any subagreements with any agency or individual in the performance of this Agreement without the written consent of COUNTY prior to the execution of such agreement.
  - 2) **Monitoring.** SUBRECIPIENT will monitor all subagreed services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions to correct areas of noncompliance.
  - 3) **Content.** SUBRECIPIENT shall cause all the provisions of this Agreement in its entirety to be included in and made a part of any subagreement executed in the performance of this Agreement.
  - 4) **Selection Process.** SUBRECIPIENT shall undertake to insure that all subagreements let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subagreements shall be forwarded to COUNTY along with documentation concerning the selection process.
- e) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- f) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.
- g) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- h) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

**15. Other Federal Requirements**

- a) The requirements in 24 CFR part 5, subpart A are applicable, including the nondiscrimination and equal opportunity requirements at 24 CFR 5.105(a). Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and implementing regulations at 24 CFR part 135 apply, except that homeless individuals have priority over other Section 3 residents in accordance with § 576.405(c).
- b) **Hatch Act.** SUBRECIPIENT agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United States Code.



- c) **Affirmative outreach.** SUBRECIPIENT must make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures that the recipient or subrecipient intends to use to make known the availability of the facilities, assistance, and services will reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for those facilities and services, the recipient or subrecipient must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services. SUBRECIPIENT must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Consistent with Title VI and Executive Order 13166, SUBRECIPIENT is also required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (“LEP”) persons.
- d) **Uniform Administrative Requirements.** The requirements of 2 CFR 200 apply to SUBRECIPIENT. These regulations include allowable costs and non-Federal audit requirements.
- e) **Religious Organization.** SUBRECIPIENT agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interest, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 576.406.
- f) **Environmental review responsibilities.**
  - 1) Activities under this part are subject to environmental review by HUD under 24 CFR Part 50. SUBRECIPIENT shall supply all available, relevant information necessary for COUNTY to perform for each property any environmental review required by 24 CFR part 50. At the instruction of COUNTY SUBRECIPIENT may be required to carry out mitigating measures required by COUNTY or select alternate eligible property. COUNTY may eliminate from consideration any application that would require an Environmental Impact Statement (“EIS”).
  - 2) SUBRECIPIENT, or any contractor of SUBRECIPIENT, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this part, or commit or expend HUD or local funds for eligible activities under this part, until COUNTY has performed an environmental review under 24 CFR part 50 and SUBRECIPIENT has received COUNTY approval of the property.
- g) **Davis-Bacon Act.** The provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a–5) do not apply to the ESG program.
- h) **Procurement of Recovered Materials.** SUBRECIPIENT and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (“EPA”) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- i) **Displacement, Relocation, and Acquisition.** Consistent with the other goals and objectives of ESG, SUBRECIPIENT must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under ESG.
- j) **Temporary relocation not permitted.** No tenant-occupant of housing (a dwelling unit) that is converted into an emergency shelter may be required to relocate temporarily for a project assisted

with ESG funds, or be required to move to another unit in the same building/complex. When a tenant moves for a project assisted with ESG funds under conditions that trigger the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), 42 U.S.C. 4601–4655, as described in paragraph (c) of this section, the tenant should be treated as permanently displaced and offered relocation assistance and payments consistent with that paragraph.

- k) **Non-displacement.** SUBRECIPIENT agrees to minimize displacement and comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (“URA”), and implementing regulations at 49 CFR Part 24 and (b) the requirements of 24 CFR 576.408 governing the ESG program. SUBRECIPIENT shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations, and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for an ESG-assisted project. SUBRECIPIENT also agrees to comply with applicable COUNTY ordinances, resolutions, and policies concerning the displacement of persons from their residences. Any activity which may result in a displaced person (defined in paragraph l. of this section) must be reported to COUNTY prior to the commencement of the activity. COUNTY shall determine the relocation assistance as provided in 24 CFR 576.408(c). All such assistance shall be subtracted from the ESG funds provided to SUBRECIPIENT.
- l) **Displaced Person.** For purposes of paragraph k. of this section, the term “displaced person” means any person (family, individual, business, nonprofit organization, or farm, including any corporation, partnership, or association) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under the ESG program. This includes any permanent, involuntary move for an assisted project, including any permanent move from the real property.
- m) **Real property acquisition requirements.** The acquisition of real property, whether funded privately or publicly, for a project assisted with ESG funds is subject to the URA and Federal government wide regulations at 49 CFR Part 24, subpart B.
- n) **Appeals.** A person who disagrees with COUNTY’s (or SUBRECIPIENT’s, if applicable) determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the recipient under 49 CFR 24.10. A low-income person who disagrees with the recipient’s determination may submit a written request for review of that determination by the appropriate HUD field office.

## 16. Civil Rights

- a) **Compliance.** SUBRECIPIENT agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Order 11375 and 12086.
- b) **Nondiscrimination.** SUBRECIPIENT will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, nation origin, sex, disability, or other handicap, age, marital/familial status, or status with regard to public assistance. SUBRECIPIENT will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the issuing agency setting forth the provisions of this nondiscrimination clause.

- c) **Section 504.** SUBRECIPIENT agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1974, which prohibits discrimination against the handicapped in any Federally-assisted program. COUNTY shall provide SUBRECIPIENT with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

## 17. Affirmative Action

- a) **Plan.** SUBRECIPIENT agrees that it shall be committed to carry out pursuant to COUNTY's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
- b) **Women and Minority Business Enterprises.** SUBRECIPIENT will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. SUBRECIPIENT may rely on written representation by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.
- c) **Access to Records.** SUBRECIPIENT shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by COUNTY, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein.
- d) **Notifications.** SUBRECIPIENT will send to each labor union or representative of workers with which it has a collective bargaining agreement or other Agreement or understandings, a notice, provided by the agency Agreementing officer, advising the labor union or worker's representative of SUBRECIPIENT's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e) **EEO/AA Statement.** SUBRECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of SUBRECIPIENT, state that it is an Equal Opportunity or Affirmative Action employer.
- f) **Subcontracting Provisions.** SUBRECIPIENT will include the provisions of Paragraph 23, Civil Rights, and 24, Affirmative Action, in every subcontract or purchase orders, specifically or by reference, so that such provisions will be binding upon each of its subrecipients or subcontractors.

## 18. Employment Restrictions

- a) **Prohibited Activity.** SUBRECIPIENT is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.
- b) **Labor Standards.** SUBRECIPIENT agrees to comply with the requirements of the Secretary of Labor in accordance with Davis-Bacon Act as amended, the provisions of Agreement: Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. SUBRECIPIENT shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made

available to COUNTY for review upon request. SUBRECIPIENT agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all Agreements engaged under Agreements in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the COUNTY pertaining to such Agreements and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journeyworkers; provide, that if wage rates higher than those required under the regulations are imposed by state or local laws, nothing hereunder is intended to relieve SUBRECIPIENT of its obligation, if any, to require payment of the higher wage. SUBRECIPIENT will cause or require to be inserted in full, in all Agreements subject to such regulations, provisions meeting the requirements of this paragraph.

c) **Job Training and Employment for Low-income Residents -Section 3**

1) **Compliance.** Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Subtitle A, Part 75, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon COUNTY, SUBRECIPIENT, and any of SUBRECIPIENT's subrecipients and subcontractors. Failure to fulfill these requirements shall subject COUNTY, SUBRECIPIENT, and any of SUBRECIPIENT's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. SUBRECIPIENT certifies and agrees that no agreements or other disability exist which would prevent compliance with these requirements.

a) SUBRECIPIENT further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

*"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Community Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and Agreements for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."*

b) SUBRECIPIENT further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the ESG funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award Agreements for work undertaken in connection to housing rehabilitation, housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which ESG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

c) SUBRECIPIENT certifies and agrees that no agreement or other legal incapacity exists which would prevent compliance with these requirements.

2) **Notifications.** SUBRECIPIENT agrees to send to each labor organization or representative of worker with which it has a collective bargaining agreement or other Agreement or understanding,

if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

- 3) **Subcontracts.** SUBRECIPIENT will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontract is in violation of regulations issued by the grantor agency. SUBRECIPIENT will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
19. **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
20. **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
21. **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
22. **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
23. **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
24. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
25. **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
26. **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.

*(Signature Page Follows)*



## EXHIBIT A

### SUBRECIPIENT STATEMENT OF PROGRAM OBJECTIVES & REQUIREMENTS

#### 1. Scope of Cooperation

- a. **HMIS.** SUBRECIPIENT shall ensure that data on all persons served and all activities assisted under ESG are entered into the applicable community-wide HMIS in the area in which those persons and activities are located, or a comparable database, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. If SUBRECIPIENT is a victim service provider or a legal services provider, it may use a comparable database that collects client-level data over time (i.e., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS
- b. **ESG Program Policies.** SUBRECIPIENT agrees to adhere to the Clackamas County ESG Program Policy Manual which is attached and made part of this agreement as Attachment A.

#### 2. Program Requirements

- a. Coordination with other targeted homeless services.
  - i. SUBRECIPIENT must coordinate and integrate, to the maximum extent practicable, ESG-funded activities with other programs targeted to homeless people in the area covered by the Continuum of Care or area over which the services are coordinated to provide a strategic, community-wide system to prevent and end homelessness for that area. The list of programs are included in 24 CFR 576.400(b).
  - ii. System and program coordination with mainstream resources. SUBRECIPIENT must coordinate and integrate, to the maximum extent practicable, ESG-funded activities with mainstream housing, health, social services, employment, education, and youth programs for which families and individuals at risk of homelessness and homeless individuals and families may be eligible. Examples of these programs are included in 24 CFR Part 576.400(c).
- b. Coordinated Housing Assessment. The Continuum of Care has developed a coordinated assessment system in accordance with requirements to be established by HUD, each ESG-funded program or project within the Continuum of Care's area must use that assessment system. SUBRECIPIENT must work with COUNTY to ensure the screening, assessment and referral of program participants are consistent with the written standards required by the Continuum of Care's coordinated assessment system. A victim service provider may choose not to use the Continuum of Care's coordinated assessment system.
- c. SUBRECIPIENT must establish and consistently apply written standards for providing ESG assistance. At a minimum these written standards must include:
  - i. Standard policies and procedures for evaluating individuals' and families' eligibility for assistance under ESG;
  - ii. Standards for targeting and providing essential services related to street outreach;
  - iii. Policies and procedures for admission, diversion, referral, and discharge by emergency shelters assisted under ESG, including standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations, e.g., victims of domestic violence, dating violence, sexual assault, and stalking; and individuals and families who have the highest barriers to housing and are likely to be homeless the longest;
  - iv. Policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter;
  - v. Policies and procedures for coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid re-housing assistance providers; other homeless assistance providers; and mainstream service and housing providers (see § 576.400(b) and (c) for a

- list of programs with which ESG-funded activities must be coordinated and integrated to the maximum extent practicable);
- vi. Policies and procedures for determining and prioritizing which eligible families and individuals will receive homelessness prevention assistance and which eligible families and individuals will receive rapid re-housing assistance;
  - vii. Standards for determining what percentage or amount of rent and utilities costs each program participant must pay while receiving homelessness prevention or rapid re-housing assistance;
  - viii. Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time; and
  - ix. Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide to a program participant, including the limits, if any, on the homelessness prevention or rapid re-housing assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant receive assistance, or the maximum number of times the program participant may receive assistance.
- d. Participation in HMIS. SUBRECIPIENT shall ensure that data on all persons served and all activities assisted under ESG are entered into the applicable community-wide HMIS in the area in which those persons and activities are located, or a comparable database, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. If SUBRECIPIENT is a victim service provider or a legal services provider, it may use a comparable database that collects client-level data over time (i.e., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS.
  - e. Evaluations. SUBRECIPIENT must conduct an initial evaluation to determine the eligibility of each individual or family's eligibility for ESG assistance and the amount and types of assistance the individual or family needs to regain stability in permanent housing. These evaluations must be conducted in accordance with the centralized or coordinated assessment requirements set forth under 24 CFR § 576.400(d) and the written standards established under 24 CFR § 576.400(e).
  - f. Re-evaluations for homelessness prevention and rapid re-housing assistance. SUBRECIPIENT must re-evaluate the program participant's eligibility and the types and amounts of assistance the program participant needs not less than once every 3 months for program participants receiving homelessness prevention assistance, and not less than once annually for program participants receiving rapid re-housing assistance. At a minimum, each reevaluation of eligibility must establish that:
    - i. The program participant does not have an annual income that exceeds 30 percent of median family income for the area, as determined by HUD; and
    - ii. The program participant lacks sufficient resources and support networks necessary to retain housing without ESG assistance.
  - g. Annual income. When determining the annual income of an individual or family, SUBRECIPIENT must use the standard for calculating annual income under 24 CFR 5.609.
  - h. Connecting program participants to mainstream and other resources. SUBRECIPIENT must assist each program participant, as needed, to obtain:
    - i. Appropriate supportive services, including assistance in obtaining permanent housing, medical health treatment, mental health treatment, counseling, supervision, and other services essential for achieving independent living; and
    - ii. Other Federal, State, local, and private assistance available to assist the program participant in obtaining housing stability. The list of programs is included in 24 CFR Part 576.400(c).
  - i. Housing stability case management.
    - i. While providing homelessness prevention or rapid re-housing assistance to a program participant, SUBRECIPIENT must:



- a) Require the program participant to meet with a case manager not less than once per month to assist the program participant in ensuring long-term housing stability; and
  - b) Develop a plan to assist the program participant to retain permanent housing after the ESG assistance ends, taking into account all relevant considerations, such as the program participant's current or expected income and expenses; other public or private assistance for which the program participant will be eligible and likely to receive; and the relative affordability of available housing in the area.
    - (1) SUBRECIPIENT is exempt from this requirement if the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) or the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) prohibits SUBRECIPIENT from making its shelter or housing conditional on the participant's acceptance of services.
- j. Terminating assistance.
- i. If a program participant violates program requirements, SUBRECIPIENT may terminate the assistance in accordance with a formal process established by COUNTY that recognizes the rights of individuals affected. SUBRECIPIENT must exercise judgment and examine all extenuating circumstances in determining when violations warrant termination so that a program participant's assistance is terminated only in the most severe cases.
  - ii. Program participants receiving rental assistance or housing relocation and stabilization services. To terminate rental assistance or housing relocation and stabilization services to a program participant, the required formal process, at a minimum, must consist of:
    - a) Written notice to the program participant containing a clear statement of the reasons for termination;
    - b) A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
    - c) Prompt written notice of the final decision to the program participant.
  - iii. Ability to provide further assistance. Termination under this section does not bar SUBRECIPIENT from providing further assistance at a later date to the same family or individual.
- k. Shelter and housing standards.
- i. Lead-based paint remediation and disclosure. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations in 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under ESG program and all housing occupied by program participants.
  - ii. Minimum standards for emergency shelters. Any building for which Emergency Solutions Grant (ESG) funds are used for conversion, major rehabilitation, or other renovation, must meet state or local government safety and sanitation standards, as applicable, and the following minimum safety, sanitation, and privacy standards. Any emergency shelter that receives assistance for shelter operations must also meet the following minimum safety, sanitation, and privacy standards. The recipient may also establish standards that exceed or add to these minimum standards.
    - a) Structure and materials. The shelter building must be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents. Any renovation (including major rehabilitation and conversion) carried out with ESG assistance must use Energy Star and WaterSense products and appliances.
    - b) Access. The shelter must be accessible in accordance with Section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 CFR part 100; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.) and 28 CFR part 35; where applicable.

- c) Space and security. Except where the shelter is intended for day use only, the shelter must provide each program participant in the shelter with an acceptable place to sleep and adequate space and security for themselves and their belongings.
  - d) Interior air quality. Each room or space within the shelter must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.
  - e) Water supply. The shelter's water supply must be free of contamination.
  - f) Sanitary facilities. Each program participant in the shelter must have access to sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.
  - g) Thermal environment. The shelter must have any necessary heating/cooling facilities in proper operating condition.
  - h) Illumination and electricity. The shelter must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.
  - i) Food preparation. Food preparation areas, if any, must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
  - j) Sanitary conditions. The shelter must be maintained in a sanitary condition.
  - k) Fire safety. There must be at least one working smoke detector in each occupied unit of the shelter. Where possible, smoke detectors must be located near sleeping areas. The fire alarm system must be designed for hearing-impaired residents. All public areas of the shelter must have at least one working smoke detector. There must also be a second means of exiting the building in the event of fire or other emergency.
- I. Minimum standards for permanent housing. The recipient or subrecipient cannot use ESG funds to help a program participant remain or move into housing that does not meet the minimum habitability standards provided in this section I. The recipient may also establish standards that exceed or add to these minimum standards.
- i. Structure and materials. The structures must be structurally sound to protect residents from the elements and not pose any threat to the health and safety of the residents.
  - ii. Space and security. Each resident must be provided adequate space and security for themselves and their belongings. Each resident must be provided an acceptable place to sleep.
  - iii. Interior air quality. Each room or space must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.
  - iv. Water supply. The water supply must be free from contamination.
  - v. Sanitary facilities. Residents must have access to sufficient sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.
  - vi. Thermal environment. The housing must have any necessary heating/cooling facilities in proper operating condition.
  - vii. Illumination and electricity. The structure must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the structure.
  - viii. Food preparation. All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
  - ix. Sanitary conditions. The housing must be maintained in a sanitary condition.
  - x. Fire safety.

- a) There must be a second means of exiting the building in the event of fire or other emergency.
  - b) Each unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each occupied level of the unit. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing impaired persons, smoke detectors must have an alarm system designed for hearing impaired persons in each bedroom occupied by a hearing-impaired person.
  - c) The public areas of all housing must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.
- m. Organizational conflicts of interest. The provision of any type or amount of ESG assistance may not be conditioned on an individual's or family's acceptance or occupancy of emergency shelter or housing owned by the recipient, SUBRECIPIENT, or a parent or subsidiary of SUBRECIPIENT. No subrecipient may, with respect to individuals or families occupying housing owned by SUBRECIPIENT, or any parent or subsidiary of SUBRECIPIENT, carry out the initial evaluation required under 24 CFR § 576.401 or administer homelessness prevention assistance under 24 CFR § 576.103.
- n. Individual conflicts of interest. For the procurement of goods and services, SUBRECIPIENT must comply with the codes of conduct and conflict of interest requirements under 24 CFR 84.42. For all other transactions and activities, the following restrictions apply:
- i. Conflicts prohibited. No person described in paragraph n of this section who exercises or has exercised any functions or responsibilities with respect to activities assisted under the ESG program, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under the program, may obtain a financial interest or benefit from an assisted activity; have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or during the one-year period following his or her tenure.
  - ii. Persons covered. The conflict-of-interest provisions of paragraph (n)(i) of this section apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of SUBRECIPIENT.
  - iii. Exceptions. Upon the written request of the recipient, COUNTY, in conjunction with HUD, may grant an exception to the provisions of this subsection on a case-by-case basis, taking into account the nature of the conflict and the factors listed below:
    - a) Threshold requirements. COUNTY and HUD will consider an exception only after the recipient has provided an opinion of the recipient's attorney that the interest for which the exception is sought would not violate state or local law.
    - b) Factors to be considered for exceptions. In determining whether to grant a requested exception after SUBRECIPIENT has satisfactorily met the threshold requirements, HUD must conclude that the exception will serve to further the purposes of the ESG program and the effective and efficient administration of SUBRECIPIENT's program or project, taking into account the cumulative effect of the following factors, as applicable:
      - (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
      - (2) Whether an opportunity was provided for open competitive bidding or negotiation;
      - (3) Whether the affected person has withdrawn from his or her functions, responsibilities or the decision-making process with respect to the specific activity in question;
      - (4) Whether the interest or benefit was present before the affected person was in the position in which the conflict of interest may have occurred;

- (5) Whether undue hardship results to SUBRECIPIENT, or the person affected, when weighed against the public interest served by avoiding the prohibited conflict; and
    - (6) Any other relevant considerations.
  - iv. Contractors. All contractors of SUBRECIPIENT must comply with the same requirements that apply to subrecipients under this section.
- o. Homeless Participation.
  - i. SUBRECIPIENT must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policy-making entity of SUBRECIPIENT, to the extent that the entity considers and makes policies and decisions regarding any facilities, services, or other assistance that receive funding under ESG.
  - ii. If SUBRECIPIENT is unable to meet the homeless participation requirement, it must instead develop and implement a plan to consult with homeless or formerly homeless individuals in considering and making policies and decisions regarding any facilities, services, or other assistance that receive funding under ESG. The plan must be submitted to COUNTY to be included in the annual action plan required under 24 CFR 91.220.
  - iii. To the maximum extent practicable, SUBRECIPIENT must involve homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under ESG, in providing services assisted under ESG, and in providing services for occupants of facilities assisted under ESG.

**EXHIBIT A.1**

**SUBRECIPIENT SCOPE OF WORK**

I. Scope of Work for: The ESG Emergency Shelter

SUBRECIPIENT agrees to accomplish the following work under this Agreement:

A. Provide emergency shelter services to homeless families including:

- Safety planning
- Advocacy and assistance navigating systems
- Case management
- Crisis intervention
- Information and Referral
- Support groups
- Counseling

B. It is expected that the funding under this ESG Agreement will assist approximately 50 homeless families with shelter services during the **July 1, 2021 to June 30, 2022** program year.

**EXHIBIT B**

**SUBRECIPIENT PROGRAM BUDGET**

- A. The total compensation under this contract shall not exceed \$58,746 with payments to be made as outlined in the body of the contract.
- B. Adjustments to the budget may only be made with the approval of both Parties.

<b>Program Costs</b>	<b>Amount</b>	<b>Source of Funds</b>
		-Unrestricted agency funds -Government funding (confirmed): H3S: Emergency Shelter Grant Community Development: ESG
Shelter Staffing	\$453,013	Community Development CDBG
Shelter Utilities	\$23,500	Unrestricted agency funds
Shelter Maintenance	\$22,391	Unrestricted agency funds
Shelter Supplies	\$24,362	Unrestricted agency funds
Insurance	\$5,600	Unrestricted agency funds
Food (Community Events)	\$4,949	Unrestricted agency funds
Other (training, client assistance, program overhead, occupancy, admin support, depreciation)	\$253,713	Unrestricted agency funds
Total Shelter Expenses	\$787,528	
Total ESG:	\$58,746	

**EXHIBIT C: CONGRESSIONAL LOBBYING CERTIFICATE**

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

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

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

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

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

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

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

Northwest Housing Alternatives

Organization Name

Award Number or Project Name

Trell Anderson, Executive Director

Name and Title of Authorized Representative



October 13, 2021

Signature

Date

**Exhibit D  
REQUEST FOR REIMBURSEMENT**

**Note: This form derives from the approved budget in your grant Agreement.  
Please follow instructions for completing this form as outlined in Exhibit D.1.**

<b>Subrecipient</b> <u>Northwest Housing Alternatives</u>	<b>Grant Number:</b> <u>22-017</u>
<b>Address:</b> _____	<b>Report Period:</b> _____
	<b>Contract #:</b> _____
<b>Contact Person:</b> _____	<b>Federal Award #:</b> <u>E20-UC-41-0003</u>
<b>Phone Number:</b> _____	<b>CFDA(s):</b> <u>14.231</u>
<b>E-mail:</b> _____	

Budget Category	Budget	Current Draw Request	Previously Requested	Balance
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
<b>Total Grant Funds Requested</b>	\$ -	\$ -	\$ -	\$ -

**ATTACH ALL RECEIPTS AND REQUIRED CLIENT DOCUMENTATION.**

**Clackamas County and the Federal government retain the right to inspect all financial records and other books, documents, papers, plans, records of shipments and payments and writings of Recipient that are pertinent to this Agreement.**

**CERTIFICATION**

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

**Prepared by:** \_\_\_\_\_

**Authorized Signer:** \_\_\_\_\_

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

**Department Review**

**Project Officer Name:** \_\_\_\_\_

**Department:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

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



#### **EXHIBIT D.1: REIMBURSEMENT INSTRUCTIONS**

Reimbursement by COUNTY will be within 30 days of receipt of acceptable countersigned itemized invoices or billings reflecting the actual cost to SUBRECIPIENT of eligible expenses. Each invoice shall be accompanied with a detailed Request for Reimbursement (Exhibit D) which shall include appropriate documentation. This documentation shall include signed and approved timecards for personnel expenses and itemized invoices or billings for materials and services.

- COUNTY must provide HUD with specific household demographic information for each household served by ESG funds. The household information will be collected from SUBRECIPIENT and must accompany the first SUBRECIPIENT invoice for each household.
- The request for reimbursement shall also include a summary of expenses incurred for each household along with source documentation. In addition, an HMIS report documenting the type and amount of financial assistance for each household shall accompany the invoice.
- Information on the request for reimbursement form, the household demographics, the source documentation and the summary of expenses incurred for each specific household from the HMIS reports must all correlate. See Attachment B.

## **EXHIBIT E: PERFORMANCE REPORTING REQUIREMENTS**

SUBRECIPIENT will comply with:

- All current HMIS Policy & Procedures;
- HMIS Participation Agreement;
- All ESG HMIS reporting requirements developed by COUNTY;
- SUBRECIPIENT will provide documentation to COUNTY annually on the project activities completed in accordance with this Agreement.

## EXHIBIT F

### Required Certifications

I, Trell Anderson, Executive Director of Northwest Housing Alternatives, Inc. (“SUBRECIPIENT”) certify the provision of the matching supplemental funds required by the regulation 24 CFR 576.201. A description of the sources and amounts of such supplemental funds are included in the Attachment B agency Fiscal Year operating budget.

### **ESG Certifications**

The Emergency Solutions Grants Program SUBRECIPIENT certifies that:

**Major rehabilitation/conversion** – If an emergency shelter’s rehabilitation costs exceed 75 percent of the value of the building before rehabilitation, SUBRECIPIENT will maintain the building as a shelter for homeless individuals and families for a minimum of 10 years after the date the building is first occupied by a homeless individual or family after the completed rehabilitation. If the cost to convert a building into an emergency shelter exceeds 75 percent of the value of the building after conversion, the jurisdiction will maintain the building as a shelter for homeless individuals and families for a minimum of 10 years after the date the building is first occupied by a homeless individual or family after the completed conversion. In all other cases where ESG funds are used for renovation, the jurisdiction will maintain the building as a shelter for homeless individuals and families for a minimum of 3 years after the date the building is first occupied by a homeless individual or family after the completed renovation.

**Essential Services and Operating Costs** – In the case of assistance involving shelter operations or essential services related to street outreach or emergency shelter, SUBRECIPIENT will provide services or shelter to homeless individuals and families for the period during which the ESG assistance is provided, without regard to a particular site or structure, so long the jurisdiction serves the same type of persons (e.g., families with children, unaccompanied youth, disabled individuals, or victims of domestic violence) or persons in the same geographic area.

**Renovation** – Any renovation carried out with ESG assistance shall be sufficient to ensure that the building involved is safe and sanitary.

**Supportive Services** – SUBRECIPIENT will assist homeless individuals in obtaining permanent housing, appropriate supportive services (including medical and mental health treatment, victim services,

counseling, supervision, and other services essential for achieving independent living), and other Federal State, local, and private assistance available for such individuals.

**Matching Funds** – SUBRECIPIENT will obtain matching amounts required under 24 CFR 576.201 and as outlined in Exhibit G.

**Confidentiality** – SUBRECIPIENT has established and is implementing procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG program, including protection against the release of the address or location of any family violence shelter project, except with the written authorization of the person responsible for the operation of that shelter.

**Homeless Persons Involvement** – To the maximum extent practicable, SUBRECIPIENT will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under the ESG program, in providing services assisted under the ESG program, and in providing services for occupants of facilities assisted under the program.

**Consolidated Plan** – All activities SUBRECIPIENT undertakes with assistance under ESG are consistent with the jurisdiction's consolidated plan.

**Discharge Policy** – SUBRECIPIENT will establish and implement, to the maximum extent practicable and where appropriate policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, mental health facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent this discharge from immediately resulting in homelessness for these persons.

**HMIS** – SUBRECIPIENT will comply with HUD's standards for participation in the local Homeless Management Information System and the collection and reporting of client level information.

The requirement that SUBRECIPIENT involve, to the maximum possible extent practicable and where appropriate, homeless individuals and families in policy making, renovating, maintaining, and operating facilities assisted under the ESG program is met in the following manner:

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*Jill Anderson*                      October 13, 2021  
Signature/Authorized Official                      Date

Executive Director  
Title

<b>Project Name: ESG FY2021</b>	<b>Agreement #: 22-017</b>
<b>Federal Award #: E20-UC-41-0003</b>	<b>Date of Submission: XX/XX/XX</b>
<b>Subrecipient: NORTHWEST HOUSING ALTERNATIVES, INC.</b>	
<b>Has Subrecipient submitted all requests for reimbursement? Y/N</b>	
<b>Has Subrecipient met all programmatic closeout requirements? Y/N</b>	

## EXHIBIT G: Final Financial Report

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

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

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

Subrecipient's Certifying Official (printed): \_\_\_\_\_

Subrecipient's Certifying Official (signature): \_\_\_\_\_

Subrecipient's Certifying Official's title: \_\_\_\_\_

**ATTACHMENT A: ESG POLICIES**

2019 ESG and CoC Policy Manual sent via email to NHA on October 5, 2021.  
Recipients of the email for NHA: Peter Rosenblatt and Vickie Howard.

November 4, 2021

Board of County of Commissioners  
Clackamas County

Members of the Board:

Approval of a Cooperation Agreement with Clackamas Service Center  
Grant funds of \$650,000 through Community Development Block Grant.  
No County General Funds

<b>Purpose/ Outcome</b>	Signature approval of a Cooperation Agreement to fund a portion of the construction expenses for Clackamas Services Center Expansion Project that will provide increased homeless services capacity in Clackamas County.
<b>Dollar Amount and Fiscal Impact</b>	Community Development Block Grant CARES Act funds (CDBG CV3) of \$ 650,000: CDBG Funds as a grant \$ 300,000: Other CSC grant Funds \$ 950,000: Total estimated project costs
<b>Funding Source</b>	U.S. Department of Housing and Urban Development CDBG CARES Act funds <b>No County General Funds</b> are included in this Agreement
<b>Duration</b>	Upon signature to 20 years after completion of the project ( est. 2042)
<b>Previous Board Action/ Review</b>	October 29, 2020 BCC approval of application for CDBG CV3 funds. July 20, 2021 BCC policy session, project funding recommendations approved.
<b>Strategic Plan Alignment</b>	Increase self-sufficiency for our clients. Ensure safe, healthy and secure communities.
<b>County Review</b>	The Cooperation Agreement was reviewed and approved by County Counsel AN on 10/12/2021.
<b>Procurement Review</b>	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. Working with Finance Grants, Community Development Division distributed a Notice of Funding Opportunity (NOFO)
<b>Contact Person</b>	Mark Sirois, Manager - Community Development: 503-655-8591
<b>Contract No.</b>	H3S# 10280

**BACKGROUND:** The Community Development Division of the Health, Housing and Human Services Department requests the approval of a Cooperation Agreement for the Clackamas Services Center (CSC) Expansion Project that will expand and improve the homeless services in northern Clackamas County.

The County applied for this CDBG CAREs ACT grant funding in October 2020. In May of 2021, the Community Development Division advertised and distributed a Notice of Funding Opportunity (NOFO). The purpose of the NOFO was to partner with community based organizations (“CBO”) to assist eligible low-income County residents impacted by COVID-19 with health care services and homeless shelter and services. A total of six (6) proposals were submitted. All were reviewed and evaluated in the context of other available and awarded state and federal funding for these types and projects and services in Clackamas County. This health clinic project was one of two projects recommended to the BCC for funding.

*Healthy Families. Strong Communities.*



**PROJECT OVERVIEW:** This CSC Homeless Services Center Expansion construction project will renovate and expand an existing homeless service center buildings to allow for more homeless people to be offered access to services including healthcare to prevent the coronavirus from spreading in Clackamas County. The Clackamas Service Center homeless shelter is located at 8800 SE 80th Ave. Portland, OR 97206 in Clackamas County.

The Community Development Division is working with CSC and an architecture firm to prepare a construction bid package for advertising in January 2022. It is anticipated that the construction will begin in March of 2022.

**RECOMMENDATION:** We recommend signature approval of this Cooperation Agreement

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary Rumbaugh".

Rodney A. Cook, Director  
Health, Housing, and Human Services

Attached: Cooperation Agreement.

# COOPERATION AGREEMENT

Between

CLACKAMAS COUNTY, OREGON

And

CLACKAMAS SERVICE CENTER, INC.

## I. Background

- A. This Cooperation Agreement (this “Agreement”) is entered into between Clackamas County, through its Community Development Division, a political subdivision of the State of Oregon (“County”) and the Clackamas Service Center, Inc., an Oregon non-profit corporation (“CSC”) to construct renovations to CSC’s service center and the center annex buildings located at 8800 SE 80th Ave, Portland, OR 97206 in Clackamas County (the “Project”).
- B. CSC is a 501(c)3 nonprofit organization founded in 1973 and headquartered in Clackamas County. The CSC mission is to be an inclusive, trauma-informed "one-stop-shop" where community members experiencing hunger and poverty can meet their basic food, health, and hygiene needs, and connect with supportive services to help them take their next steps toward stability and self-sufficiency.
- C. Based on the demographics of the population that CSC serves, the County has determined that the Project meets a national objective and is eligible for Community Development Block Grant (“CDBG”) COVID funds provided by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, that was signed into law on March 27, 2020 to help respond to the coronavirus outbreak. The CARES Act allocated additional CDBG COVID funding for Clackamas County to be used to prevent, prepare for, and respond to the Coronavirus (COVID-19). The Project will help prevent the coronavirus outbreak by providing expanded facility space for hygiene supplies and health care services referrals to homeless and low-income persons that are vulnerable to this coronavirus.
- D. The County will provide partial funding for the Project, and will be responsible for bidding, negotiating, and managing any public contracts with third parties necessary to complete the Project. CSC will be responsible for matching a certain percentage of the total Project cost, as detailed in this Agreement, and for any costs incurred on the Project in excess of the funds contributed by the County, and will coordinate with County and any third party the County contracts with to complete the Project.

## II. Consideration

- A. The County agrees to provide CDBG funds toward the Project in a sum not to exceed **\$650,000.00** (“CDBG Funds”). The CDBG Funds allocated for the Project will be paid directly to any contractor hired by County to perform the work on the Project (“Contractor”) upon full execution of a construction contract. CSC agrees to pay all Project costs incurred in excess of the CDBG Funds, including any change orders or other additional expenses related to the construction contract. Project costs include, but are not limited to, construction costs permitted under the contract with the Contractor to complete the Project as well as approved change orders. CSC is further responsible for providing a minimum 20% match contribution towards the Project costs, as detailed in Article IV, below.

The parties anticipate that the total costs of completing the Project will not exceed the sum of \$1,200,000 dollars. If, following receipt of construction bid proposals as part of the County’s public bid process, either party determines the Project cannot be completed with available funds, the County and CSC agree to negotiate, in good faith, a possible modification of the Project or this Agreement to accommodate funding limitations. If the parties are unable to reach an agreement as to a modified Project or amendment to the Agreement, this Agreement shall terminate, the parties shall bear their own costs incurred as of the date of termination, and the parties shall have no further obligations regarding this Agreement.

- B. **Payment.** The Contractor will submit monthly invoices to County for work performed to complete the Project and shall include the total amount billed to date prior to the current invoice. Invoices shall describe all work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. County shall make payment(s) to the Contractor in the time and manner set forth in the construction contract with Contractor. CDBG Funds will be used first to pay the Contractor. Once the County has expended all of the CDBG Funds allocated for the Project, CSC will pay County all additional amounts necessary to complete the Project on a reimbursement basis as follows: County will submit monthly invoices for amounts paid to the Contractor, and CSC shall make payment to County within twenty one (21) days of receipt of each invoice. CSC will reimburse County for all amounts owed to the Contractor in excess of the CDBG Funds provided by County under this Agreement. Payment shall be made to County at the following address:

Clackamas County  
Public Services Building-Department of Finance  
2051 Kaen Road, Fourth Fl.  
Oregon City, OR 97045

- C. **Security.** On or before execution of any contract between County and Contractor to perform the work on the Project, CSC shall provide security for the performance of its obligation to pay all costs incurred in excess of the CDBG Funds provided by County under this Agreement. The security provided must be in a form acceptable to County, in its sole discretion, and must provide, at a minimum, sufficient funds to pay all Project costs that may be incurred by Contractor to complete the Project. The security requirement provided herein is a condition precedent to County’s execution of a contract

between County and Contractor. CSC’s failure to provide acceptable security to County shall permit County to immediately terminate this Agreement. County shall have the right to draw upon the security provided herein in the event CSC fails to make payment to County in accordance with its payment obligations set forth in Subsection (B), above.

### III. Scope of Responsibilities

A. Under this Agreement, the responsibilities of CSC shall be as follows:

1. CSC shall provide all necessary supervisory and administrative support to assist the County with the completion of the Project.
2. CSC 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 has a Right-Of-Way Acquisition Specialist that CSC may consult.
3. CSC shall provide architectural services for the design and construction oversight of the Project. Such services shall be provided at no cost to the County. CSC shall assume responsibility for ensuring the following:
  - a. CSC shall hire a registered professional architect (“Architect”) to prepare all plans and specifications necessary to publicly bid the Project for award to a contractor and provide construction oversight of the Project. The Architect firm may donate staff time as well as donate materials for the Project.
  - b. CSC will ensure that the Architect agrees to indemnify, defend, and hold 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 Architect or the Architect’s employees, subcontractors, or agents.
  - c. CSC shall require the Architect to maintain insurance policies in the amounts and types set forth in the table below. CSC shall further require the Architect to name the County as an additional insured on all required policies. CSC shall ensure the coverage set forth below include contractual liability insurance for the indemnity provided under this Agreement.

#### Minimum Insurance Requirements For Architect:

	Commercial General Liability:	Automobile Liability Commercial:	Professional Liability:
Architects	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000

- d. CSC shall require the Architect to maintain in force such coverage for not less than three (3) years following completion of the Project. Such insurance shall provide 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.
  - e. CSC shall provide County proof of insurance within thirty (30) days of execution of this Agreement.
  - f. CSC shall ensure that the Architect's responsibilities include, but are not limited to, the following:
    - (1) During construction the Architect shall endeavor to guard the County against apparent defects and deficiencies in the permanent work constructed by the Contractor.
    - (2) All reports and recommendations concerning construction shall be submitted to the County for its approval.
    - (3) 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, CSC shall be solely responsible for all costs associated with these modifications.
4. CSC will bear the risk of loss from fire, extended coverage, and all other accidents coverable by an owner's liability insurance policy and will purchase and maintain property insurance on all Project property. CSC will bear the risk of loss from accidents coverable by owner's liability insurance.
  5. CSC shall provide all necessary supervisory and administrative support to assist the County with the completion of the Project. CSC will submit to County for its approval all reports and recommendations concerning construction of Project.
  6. Upon completion of the Project, CSC:
    - a. Agrees to accept the improvements and responsibility for any claims arising out of or related to the Project from that point forward;
    - b. Agrees to become the successor of the Project construction contract and assume all of the corresponding rights and responsibilities; and
    - c. Agrees to continue operating the Property as a homeless services center for at least 20 years.
  7. CSC agrees to report to the County information on the race and head-of-household status for each client. The report shall cover the period between July 1 to June 30 for each year or partial year after completion of the Project. The report shall be on the form attached hereto as Attachment A and incorporated by this reference herein, and shall be submitted to the County no later than the 31st day of August.

8. CSC agrees to maintain ownership of the Property for a period of not less than twenty years (20) from the fully executed date of this Agreement. Immediately upon execution of this Agreement, CSC shall have a Declaration of Land Use Restrictive Covenants (“DLURC”) recorded with the County’s Recorders Office acknowledging the use of CDBG funds in the renovation of the property and imposing restrictions on future use of the property. A copy of the DLURC is attached hereto as ATTACHMENT B and incorporated by this reference herein.
  9. CSC agrees to inform the County in writing prior to making any change in the use of the Property. Should the new use not meet HUD eligibility criteria, and/or the clients no longer meet the HUD income guidelines, CSC shall reimburse County as provided under applicable law including, but not limited to, the requirements of 24 CFR 570.505. In no event will CSC’s reimbursement obligations be less than the full amount of CDBG funds provided by the County under this Agreement.
  10. Should the Property be sold and converted to a non-qualifying use at any time before expiration of the twenty (20) year period set forth in the DLURC to a non-qualifying use, CSC agrees to reimburse the County as provided under applicable law including, but not limited to, the requirements of 24 CFR 570.505. In no event will CSC’s reimbursement obligations be less than the full amount of CDBG funds provided by the County under this Agreement.
  11. CSC shall comply with all applicable provisions of 24 CFR Part 200.
  12. Contemporaneous with execution of this Agreement, CSC shall complete and submit a Matching Funds Report following completion of the Project, attached hereto as ATTACHMENT C and incorporated by this reference herein.
- B. Under this Agreement, the responsibilities of the County will be as follows:
1. The County agrees to provide and administer available the CDBG Funds granted by the U.S. Department of Housing and Urban Development (“HUD”) to finance the Project, subject to the limitations contained in Section IV, below.
  2. County shall conduct an environmental assessment of the Project as required in 24 CFR 570.604.
  3. The County will bid and contract for construction of the Project.
  4. The County, with the advice of the CSC, will approve changes, modifications, or amendments as necessary to serve the public interest.
  5. The County shall provide reasonable and necessary staff for administration of the Project. A Project coordinator from the County’s Community Development Division will assist with the Project management, coordination and contract administration.
  6. The responsibilities of the Project coordinator shall include:
    - a. Prepare a bid packet to be advertised in a local contractor’s publication;
    - b. Conduct the bid opening on the date determined by all parties;
    - c. Hire a general contractor via the lowest responsible and responsive bidder;
    - d. Issue a notice to proceed after the construction contract is approved;

- e. Conduct a pre-construction conference with the general contractor and CSC, and the Architect;
- f. Coordinate with the Architect, CSC and general contractor throughout construction of the Project;
- g. Administration of federal and state prevailing wage requirements;
- h. Complete all closeout paperwork and complete all federal reporting requirements;
- i. With the approval of the Architect and both parties;
  - (1) Make payment to the contractor;
  - (2) Release retainage funds to the contractor as appropriate; and
  - (3) Notify CSC of their responsibilities for all warranty related issues after the release of retainage.

#### **IV. Budget and Financial Responsibilities**

- A. The County will procure and manage the contract for construction of the Project pursuant to Article III, above. The obligations of the County are expressly subject to the County receiving funds from HUD for the Project, and in no event shall the County's financial contribution exceed the amount finally granted, released and approved by HUD for this Project.
- B. Expenditure of contingency funds if any, will require joint approval of the County and CSC in accordance with the terms the construction contract. Any change orders will be handled in the following manner:
  - 1. In the event that unforeseeable conditions arise which necessitate the execution of a change order, the County will execute a change order(s) subject to a determination that funds are available.
  - 2. Funds for the change order(s) shall be split 80% County and 20% CSC, provided CDBG funds are still available. In the event all CDBG funds have been expended, CSC shall be solely responsible for all additional costs under the change order.
- C. CSC shall be solely responsible for all costs which exceed available CDBG funds budgeted for the Project.
- D. In no event shall CSC financial participation be less than twenty percent (20%) of the Project costs.
- E. In the event the Project cannot be completed with available funds, the County and CSC will jointly determine the priorities of the improvements to be made within funding limits.

#### **V. Liaison Responsibility**

Debra Mason will act as liaison from CSC for the Project. Steve Kelly will act as liaison from the County for the Project.

#### **VI. Special Requirements**

- A. Law and Regulations. The County and CSC agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.

- B. 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.
- C. Indemnification. CSC 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, any act, omission, or neglect of CSC, its subcontractors, agents, or employees. CSC agrees to indemnify, hold harmless and defend 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 (1) damage or injuries to persons or property caused by the errors, omissions, fault or negligence of CSC or the CSC's employees, subcontractors, or agents; or (2) CSC's breach of any term or condition of this Agreement including, but not limited to, any claim by the Contractor for amounts due and owing to complete construction of the Project. However, neither CSC nor any attorney engaged by CSC shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall CSC settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.
- D. Notice of Claims. 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.
- E. 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 ten (10) years after Project completion 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.
- F. 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 CSC which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcripts.
- G. 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.
- H. Conflict of Interest. No officer, employee, or agent of CSC or County who exercises any functions or responsibilities in connection with the planning and carrying out of the CDBG 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.

- I. Insurance. CSC will bear the risk of loss from fire, extended coverage, and will purchase and maintain property insurance on all CSC property involved in the Project. CSC will bear the risk of loss from accidents coverable by owner's liability insurance and may, at its option, maintain such insurance. CSC shall maintain flood insurance. CSC shall, at the CSC's expense, keep in effect during the term of this Agreement the following insurance coverage: 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/ \$2,000,000 general aggregate for the protection of the County, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement.
- J. Nondiscrimination. CSC and the County agree to comply with all Federal, State, and local laws prohibiting discrimination on the basis of age, sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, familial status, or the presence of any mental or physical disability. These requirements are primarily specified in ORS Chapter 659A; 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.
- K. Handicapped Accessibility. CSC 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.
- L. Nonsubstituting for Local Funding. The CDBG Funds made available under this Agreement shall not be utilized by CSC 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.
- M. Evaluation. CSC 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.
- N. Audits and Inspections. CSC 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.
- O. 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.

- P. Change of Use. CSC agrees to comply with applicable change of use provisions contained in 24 CFR 570.505.
- Q. Reversion of Assets. Upon expiration or termination of this Agreement, CSC 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. For any real property under CSC control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000, CSC shall ensure said real property is either:
1. Used to meet one of the National Objectives in 24 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 CSC 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.

## **VII. Additional Terms and Conditions**

- A. This Agreement becomes effective when it is signed by both Parties.
- B. The term of this CDBG Grant Agreement is a period beginning when it becomes effective and ending twenty (20) years from completion of the Project.
- C. This Agreement may be suspended or terminated prior to the expiration of its term by:
1. Mutual agreement by the County and CSC;
  2. Either the County or CSC 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.
  3. The County may terminate this Agreement in the event the County fails to receive expenditure authority sufficient to allow the County, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Project or performance under this Agreement is prohibited or the County is prohibited from paying for such work from the planned funding source.
  4. Upon termination of this Agreement, any unexpended CDBG Funds shall remain with the County.

5. If this Agreement is terminated by the County due to a breach by CSC, then the County shall have any remedy available to it in law or equity.

**D. Compliance and Further Assurances.** CSC shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. CSC agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary for County to comply with applicable Federal requirements. All terms and conditions required under applicable federal law regarding CDBG or use of CDBG Funds are hereby incorporated by this reference herein.

**E. Integration.** This Agreement contains the entire agreement between CSC and the County and supersedes all prior written or oral discussions.

**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. 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 CSC 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. CSC, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.

**H. Waiver.** CSC 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.

**I. Survival.** All provisions in Article II, Article III, Article IV, Article VI, Sections (B), (C), (D), (E), (F), (G), (N), (O), (P), and (Q), and Article VII, Sections (C), (D), (E), (F), (G),

(H), (I), (J), (L), and (N), shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.

- J. 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.
- K. Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- L. 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.
- M. Force Majeure.** Neither CSC nor County shall be held responsible for delay or default caused by events outside of the CSC or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, CSC 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.
- N. 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

*[Signature Page Follows]*

The parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

**CLACKAMAS SERVICE CENTER, INC.**

8800 SE 80th Ave.  
Portland, OR 97206



Debra Mason, Executive Director

10.12.21

Date

**CLACKAMAS COUNTY**

Commissioner Tootie Smith, Chair  
Commissioner Sonya Fischer  
Commissioner Paul Savas  
Commissioner Martha Schrader  
Commissioner Mark Shull

Clackamas County,

Tootie Smith, Chair

Date

**COUNTY COUNSEL**



Andrew Naylor  
Approved to Form

10/12/2021

Date

# ATTACHMENT A

COMMUNITY DEVELOPMENT BLOCK GRANT  
 ANNUAL PERFORMANCE REPORT  
 FOR THE PERIOD: JULY 1, \_\_\_\_\_ TO JUNE 30, \_\_\_\_\_

Project Name: Clackamas Service Center Expansion Project  
 Note: Need data from June 30, 2021 through July 1, 2022

Total Number Assisted (H or P)	Total of Columns C, D, and E	Income Categories			Female Headed Households
		Low/Mod (80% - 51%)	Very Low (50% - 30%)	Extremely Low (<30%)	
(A)	(B)	(C)	(D)	(E)	(F)

Females: \_\_\_\_\_  
 Males: \_\_\_\_\_  
 Persons with Disabilities: \_\_\_\_\_

Race Categories		Total #	# Hispanic
		(G)	(H)
(1)	White:		
(2)	Black/African American:		
(3)	Asian:		
(4)	American Indian/Alaskan Native:		
(5)	Native Hawaiian/Other Pacific Islander:		
(6)	American Indian/Alaskan Native & White:		
(7)	Asian & White:		
(8)	Black/African American & White:		
(9)	Am.Indian/Alaskan Native & Black/African Am:		
(10)	Other Multi-Racial:		

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Organization

## INSTRUCTIONS

### Total Number Assisted (Column A):

Enter the actual number of persons (or households) who received assistance. Indicate whether this number represents "households" or "persons" with either (H) or (P) respectively. Each household or person may be counted only once. The number of beneficiaries reported in Column A must reflect the total of the beneficiaries reported in Column G.

### Total Low/Mod (<80% MFI) (Column B):

The total number of lower income households or persons being served (total of Columns C, D, and E) should be entered in this column.

### Income Categories

Low/Mod (Column C) - The total number of persons or households assisted who have an annual household income of 51% to 80% Median Family Income.

Low (Column D) - The total number of persons or households assisted who have an annual household income of 30% to 50% Median Family Income.

Extremely Low (Column E) - The total number of persons or households assisted who have an annual household income of 30% Median Family Income or less.

### Female-Headed Household (Column F)

Enter the number of female-headed households. If "persons" assisted is reported in Column A rather than "households" assisted, leave this column blank.

### Race (Rows 1 through 10)

All persons/households served (including persons of Hispanic ethnicity) must indicate Race.

Enter the number of households or persons using the facility or service (Column G) who are the following:

White (Row 1) - A person having origins in any of the original peoples of Europe, North Africa, or the Middle East. This category will generally include persons of Hispanic ethnicity but other categories may be chosen as appropriate.

Black or African American (Row 2) - A person having origins in any of the black racial groups of Africa.

Asian (Row 3) - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent.

American Indian or Alaskan Native Origin (Row 4) - A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliations or community recognition.

Native Hawaiian or Other Pacific Islander (Row 5) – A person having origins in the Hawaiian Islands or other Pacific Islands.

American Indian or Alaska Native and White (Row 6)

Asian and White (Row 7)

Black or African American and White (Row 8)

American Indian or Alaska Native and Black or African American (Row 9)

Other Multi-Racial (Row 10) – The balance category will be used to report individuals that are not included in any of the single race categories or in any of the multiple race categories listed above.

### Ethnicity – Hispanic (Column H)

Enter the total number of persons or households within each Race Category who indicate origins in Mexico, Puerto Rico, Cuba, Central or South America or other Spanish culture or origin.

## ATTACHMENT B

**B.O. 2003 - 236**

AFTER RECORDING RETURN TO:  
Clackamas County Community Development Division  
Public Services Building  
2051 Kaen Road, Suite 245  
Oregon City, Oregon 97045

STATUTORY NOTICE:  
The name and address of the entity holding a lien or other interest created by this instrument are set forth below, and the tax account number of the property subject to the lien or in which the interest is created is: Clackamas County Community Development Division

Legal Description – within Recitals, Page 1

### Declaration of Land Use Restrictive Covenants

**Name of Project: Clackamas Service Center – PROPERTY RENOVATION**

THIS DECLARATION OF LAND USE RESTRICTIVE COVENANTS (“Declaration”), is made this \_\_\_ day of \_\_\_\_\_, 2022, by **Clackamas Service Center, Inc.** (CSC), a community based, membership controlled, not-for-profit corporation with charitable status under IRS Code 501c(3) (“Owner”), is given as a condition precedent to the award of Community Development Block Grant (CDBG) Program funds by the **Clackamas County**, on behalf of its Community Development Division, a political subdivision of the State of Oregon, together with any successor to its rights, duties, and obligations (the “County”).

#### RECITALS

**WHEREAS**, the Owner is the owner of the land located at 8800 SE 80<sup>th</sup> Ave. Portland, Oregon 97015 (“Property”). Owner and County are working together to perform the renovation and expansion of 2 buildings (land and 2 structures) located on the Property (the “Project”), using CDBG funds provided by the County under a separate agreement (the “Agreement”). Owner will own the Property while meeting HUD Income Limits as required by CDBG guidelines for income qualified families or individuals.

**WHEREAS**, the legal description of the Property, Parcel Reference Number and Parcel Number on which the Project is located is as follows:

Beginning at a Point on the east line of Center Street east of the northeast corner of Lot numbered five (5) Coates Home Tract thence south on east line of Center Street 125 feet, to a point thence east 145 feet to a point thence north 126 feet to a point; thence west 145 feet to the place of beginning. Being east and adjoining the plat of Coates Home Tracts, as recorded in Book 14 of Plats Page 1, Records of Clackamas County, Oregon being situated in the northeast quarter (NE¼) of the northeast quarter (NE¼) of section numbered twenty nine (29) in Township One (1) south of range two (2) east of the Willamette Meridian.

The above described property being that conveyed in a deed dated the 4<sup>th</sup> day of February 1925 from A.W. Stewart and Anna Stewart (Grantors) to W.L. McCarty, Anna Stewart and A.W. Stewart, as trustees for Kendall Community Presbyterian Church, of Kendall, state of Oregon, said deed recorded in the records of Clackamas County on March 2, 1925.

Parcel Reference Number: 12E29AA03000  
Parcel Number: 00052356  
County and State: Clackamas, Oregon



**WHEREAS**, the federal United States Department of Housing and Urban Development (HUD) has made CDBG funds available to the County as authorized under title I of the Housing and Community Development Act of 1974, as amended, is described in section 101(c) of the Act (42 U.S.C. 5301(c)); and

**WHEREAS**, CDBG dollars are made available to the County and subsequently to the Owner as authorized by 24 CFR Part 570 (the "Regulations"), Owner agrees to comply with all requirements of the Regulations. Should anything in this document be construed to conflict with the Regulations, the Regulations shall prevail.

**WHEREAS**, County seeks the maximum benefit from the use of such funds consistent with the CDBG Program and its objectives; and

**WHEREAS**, the Owner has applied to the County and entered into an Agreement for an award to the Project in an amount not to exceed **Six Hundred and Fifty Thousand Dollars & no/cents (\$650,000.00)**; and

**WHEREAS**, the Owner is a not-for-profit corporation organized under IRS Code 501C (3) in response to a critical need to support low and moderate income persons in the County, and;

**WHEREAS**, the Owner, under this Declaration intends, declares, and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy, and transfer of the Property shall be and are covenants running with the Property for the term stated herein and binding upon all subsequent Owners of the Property for such term, and are not merely personal covenants of the Owner;

**WHEREAS**, Owner shall immediately upon execution of the Agreement, execute deliver and record this Declaration in the official property deed records of Clackamas County to create certain covenants running with the land for the purpose of enforcing the requirements of 24 CFR Part 200 by regulating and restricting the use, occupancy and transfer of the Property as set forth herein; and

**NOW, THEREFORE**, in consideration for County issuing the CDBG funds to complete the Project, the promises contained herein and the financial assistance provided to Owner by County, Owner agrees as follows:

#### **SECTION 1 - DEFINITION**

All the words and phrases used in this Declaration shall have the same meaning as when used in 24 CFR Parts 570 and 200 unless the context requires otherwise.

#### **SECTION 2 - RECORDING AND FILING; COVENANTS TO RUN WITH THE PROPERTY**

- (A) Upon execution of this Declaration by the Owner and the County, the Owner shall cause this Declaration and all amendments hereto to be recorded and filed in the official public land deed records of Clackamas County, and shall pay all fees and charges incurred in connection therewith. Upon recording, the Owner shall immediately transmit to the County an executed original or certified copy of the recorded Declaration showing the date, deed book and page numbers of record.
- (B) The Owner intends, declares, and covenants, on behalf of itself and all future owners of the Property and operators of the Property during the term of this Declaration, that this Declaration, and the covenants and restrictions set forth in this Declaration regulating and restricting the use, occupancy and transfer of the Property (1) shall be and are covenants running with the land, encumbering the Property for the term of this Declaration, binding upon the Owner's successors in title and all subsequent Owners and Operators of the Property; (2) are not merely personal covenants of the Owner; and (3) shall bind the Owner (and the benefits shall inure to the County and any past, present or prospective

tenant of the Property) and its respective successors and assigns during the term of this Declaration. The Owner hereby agrees that any and all requirements of the laws of the State of Oregon to be satisfied in order for the provisions of this Declaration to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and that any requirements of privileges of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to ensure that these restrictions run with the Property. For the term of this Declaration, each and every contract, deed or other instrument hereafter executed conveying the Property or portion thereof shall expressly provide that such conveyance is subject to this Declaration, provided, however, the covenants contained herein shall survive and be effective regardless of whether such contract, deed, or other instrument hereafter executed conveying the Property or portion thereof provides that such conveyance is subject to this Declaration.

- (C) The Owner covenants to obtain the consent of any prior recorded lien holder on the Property to this Declaration.

### SECTION 3 - REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE OWNER

The Owner, at all times, agrees to comply with the CDBG Program regulations of 24 CFR Part 570. The Owner hereby represents, covenants, and warrants as follows:

- (A) Owner will retain ownership of the Property for the term of this Declaration.
- (B) Owner shall maintain records sufficient to meet the requirements of 24 CFR 570.506 through 508. All records and reports required herein shall be retained and made accessible as provide in 24 CFR 570.506. Owner agrees to comply with all federal laws and regulations, except that the Owner does not assume County's responsibility for environmental review.
- (C) The Property must meet the accessibility requirements in the regulations referenced 24 CFR 5.105 (a), which implements the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, as amended.
- (D) The Owner (1) is an Oregon non-profit corporation duly organized under the laws of the State of Oregon, and is qualified to transact business under the laws of the State of Oregon, (2) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (3) has the full legal right, power and authority to execute and deliver this Declaration.
- (E) The execution and performance of this Declaration by the Owner (1) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, (2) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Owner is a party or by which it or the Property is bound, and (3) will not result in the creation or imposition of any prohibited encumbrance of any nature.
- (F) The Owner will, at the time of execution and delivery of this Declaration, have good and marketable title to the Property free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Declaration, any loan documents relating to the Property or other permitted encumbrances).
- (G) There is no action, suit, or proceeding at law or in equity, or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Owner, threatened against or affecting it, or any of its properties or rights, which if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Declaration) or would materially adversely affect its financial condition.

(H) The Owner warrants that it has not and will not execute any other Declaration with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event, the requirements of this Declaration are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

SECTION 4 - INCOME RESTRICTIONS

The Owner represents, warrants, and covenants throughout the term of this Declaration and in order to satisfy the requirements of 24 CFR Part 570 that a majority of families or individuals served at this homeless services Property shall be of low to moderate income (80% on the Area Median Income (AMI) for an individual).

SECTION 5 - TERM OF DECLARATION

This Declaration applies to the Property immediately upon recordation, and the Owner shall comply with all restrictive covenants herein no later than the first day in the Project period on which any building, which is part of the Project, is placed in service. This Declaration shall terminate **twenty (20)** years from the date this Declaration is executed by both parties.

SECTION 6 - ENFORCEMENT OF RESTRICTIONS

- (A) The Owner shall permit, during normal business hours and upon reasonable notice, any duly authorized representative of the County, to inspect any books and records of the Owner regarding the Project.
- (B) The Owner shall submit any other information, documents, or certifications requested by the County, which the County shall deem reasonably necessary to substantiate the Owner's continuing compliance with the provisions of the restrictions specified in this Declaration.
- (C) The Owner hereby agrees that the representations and covenants set forth herein may be relied upon by the County and all persons interested in Project compliance under 24 CFR Part 570 and all other applicable regulations.
- (D) This Declaration and the Agreement of which it is a part may be enforced by the County or its designee in the event the Owner fails to satisfy any of the requirements herein. In enforcing this Declaration and the Agreement, the County may, in addition to all other remedies provided by law or in equity, enforce specific performance by Owner of its obligations under this Declaration in a state court of competent jurisdiction.

IN WITNESS WHEREOF, the Owner has caused this Declaration to be signed by its duly authorized representatives, as of the day and year first written above.

\_\_\_\_\_ A 501(c)3 Non-Profit Organization  
NAME OF ORGANIZATION

By : \_\_\_\_\_  
NAME OF REPRESENTATIVE

STATE OF OREGON )

County of \_\_\_\_\_) ss.

On \_\_\_\_\_, 2021, before me personally appeared \_\_\_\_\_,  
 who being duly sworn, stated that he/she is the \_\_\_\_\_ of  
 \_\_\_\_\_ and acknowledged the foregoing instrument to  
 be the voluntary act and deed of the Owner, signed by authority of Owner.

\_\_\_\_\_  
 Notary Public for Oregon  
 My commission expires: \_\_\_\_\_

## ATTACHMENT C CDBG Project Match Funds

**For reporting to HUD at the end of the year, indicate the specific sources and amounts of matching funds for the Project:**

FY 2021-2022 CDBG Funds:	\$ <b>650,000</b> maximum
--------------------------	---------------------------

**SOURCES OF LOCAL MATCH:**  
 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.)

	\$	
	\$	
	\$	
	\$	
	\$	

Private (including recipient) Funding

Fund Raising/Cash	\$	
Loans	\$	
Building Value or Lease	\$	
Donated Goods	\$	
New Staff Salaries	\$	

Volunteers (\$5/hr)	\$ _____
Volunteer Medical/Legal	\$ _____
Other	\$ _____

Prepared By:  
(Print name)

---

Signature

Date

November 4, 2021

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement 171482-0 with The State of Oregon, Department of Human Services, Aging and People with Disabilities Division for the Provision of Services to Clackamas County Residents. Maximum Agreement Amount is \$5,452,881.  
County General Funds of \$298,750 are used as match

<b>Purpose/Outcomes</b>	To provide Older American Act (OAA) and Oregon Project Independence (OPI) funded services for persons age 60 and over in Clackamas County
<b>Dollar Amount and Fiscal Impact</b>	The total agreement is for \$5,452,881 Funded by Federal OAA Funds and State General Funds designated for the OPI and SPA Programs.
<b>Funding Source</b>	Federal Older American Act & State General Fund - \$298,750 of County General Funds are used to meet match requirements for internal programs.
<b>Duration</b>	Effective July 1, 2021 and terminates on June 30, 2023
<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>Counsel Review</b>	1. Date of Counsel review: 10/11/2021 2. Initials of County Counsel performing review: AN
<b>Procurement Review</b>	1. Was this time processed through Procurement? No 2. In no, provide brief explanation: This is an Intergovernmental Revenue Grant agreement. Not subject to Procurement Review.
<b>Contact Person</b>	Brenda Durbin, Director, Social Services Division 503-655-8641
<b>Contract No.</b>	H3S#10403

**BACKGROUND:**

The Social Services Division of the Health, Housing and Human Services request approval of the Subrecipient Intergovernmental Grant Agreement #171482-0 with the State of Oregon, Dept. of Human Services, Aging and People with Disabilities, Community Services and Supports. This agreement provides grant funding for the Social Services Division to administer Older American Act (OAA) and Oregon Project Independence (OPI) funded services as well as Special Project Allocation (SPA) funds to support services for persons 60 and over living in Clackamas County. The services provided include nutrition programs, evidence-based health promotion activities, family caregiver supports, transportation, information and referral activities, and In-home services. These services link

residents with resources to meet their individual needs. This helps them to remain independent and active in their communities for as long as possible.

Social Services Division is the designated Area Agency on Aging for the Clackamas Planning and Service area designated by the State of Oregon, Department of Human Services, Aging and People with Disabilities Division, Community Services and Supports. This agreement reflects the current Older American Act (OAA), Special Project Allocation (SPA) and Oregon Project Independence (OPI) funding for July 1, 2021 through June 30, 2023; the biennial agreement period, and was delayed due to State and Federal budget processes. The agreement was reviewed and approved by County Council on October 11, 2021.

Program Match is only required for core OAA funding. The expenses charged to General Fund to meet the match obligation for internal programming include staff time and indirect and allocated costs.

**RECOMMENDATION:**

Staff recommends the Board approval of this agreement and that Tootie Smith, Board Chair; or her designee, be authorized to sign on behalf of Clackamas County.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary Rumbaugh".

Rodney A. Cook, Director  
Health Housing & Human Services



**Grant Agreement Number 171482**

**STATE OF OREGON  
INTERGOVERNMENTAL GRANT AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to [dhs-oha.publicationrequest@state.or.us](mailto:dhs-oha.publicationrequest@state.or.us) or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Agreement is between the State of Oregon, acting by and through its Oregon Department of Human Services, hereinafter referred to as “ODHS,” and

**Clackamas County  
Acting by and through its  
Clackamas County Social Services Division (CCSS)  
District 2, Type A  
Serving: Clackamas County  
Attention: Brenda Durbin  
PO Box 2950 - 2051 Kaen Road  
Oregon City, Oregon 97045  
Telephone: 503-655-8640  
Facsimile: 503-655-8889**

**E-mail address: [brendadur@clackamas.or.us](mailto:brendadur@clackamas.or.us); [teresachr@clackamas.us](mailto:teresachr@clackamas.us);  
[ADS-ContractBilling@clackamas.us](mailto:ADS-ContractBilling@clackamas.us)**

hereinafter referred to as “**Recipient**”, “**AAA**” (or “**Agency**” when applicable), or “**County**” interchangeably.

The Program to be supported under this Agreement relates principally to the ODHS’

**Oregon Department of Human Services  
Aging and People with Disabilities (APD)  
Community Services and Supports Unit  
Agreement Administrator: Rodney Schroeder delegate  
500 Summer Street NE  
Salem, Oregon 97301  
Telephone: 503-930-7293  
Email address: [rodnev.b.schroeder@dhs.oha.state.or.us](mailto:rodnev.b.schroeder@dhs.oha.state.or.us)**



*WHEREAS, the Older Americans Act of 1965, ORS 410.080 et seq., and OAR 411-002-0100 et seq. authorize ODHS to provide funding to local governments for the operation of designated Area Agencies on Aging;*

*WHEREAS, Recipient is the “Type A” Area Agency on Aging (AAA) duly appointed to provide services mandated by the Older Americans Act and Oregon Project Independence programs within its designated Planning and Service Area, and*

*NOW THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:*

**1. Effective Date and Duration.** Once fully executed, this Agreement shall become effective on the date this Agreement has been approved by Department of Justice, regardless of the date it is signed by all parties. Recipient’s performance of the Program described in Exhibit A, Part 1, “Program Description” may start **July 1, 2021**, shall be governed by the terms and conditions herein, and such expenses incurred by Recipient may be reimbursed once this Agreement is effective, in accordance with the schedule of payments in Exhibit A, Part 2, “Disbursement and Financial Reporting”. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **June 30, 2023**. Agreement termination or expiration shall not extinguish or prejudice ODHS’ right to enforce this Agreement with respect to any default by Recipient that has not been cured.

**2. Agreement Documents.**

**a.** This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

- (1) Exhibit A, Part 1: Program Description
- (2) Exhibit A, Part 2: Disbursement and Financial Reporting
- (3) Exhibit A, Part 3: Special Provisions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements
- (6) Exhibit D: Federal Terms and Conditions
- (7) Exhibit E: Required by 2 CFR 200.332(a)(1)
- (8) Exhibit F: Privacy and Security Agreement
- (9) Exhibit F-1: Third Party Information System Access Request

There are no other Agreement documents unless specifically referenced and incorporated in this Agreement.

**b.** In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The documents comprising this Agreement shall be in the following descending order of precedence: this Agreement less all exhibits, Exhibits D, B, A, C, E, F, and F-1.

**3. Grant Disbursement Generally.** The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is

**\$5,452,881.00.** ODHS will not disburse grant to Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by all parties. ODHS will disburse the grant to Recipient as described in Exhibit A.

4. **Contractor or Subrecipient Determination.** In accordance with the State Controller’s Oregon Accounting Manual, policy 30.40.00.104, ODHS’ determination is that:

Recipient is a subrecipient  Recipient is a contractor  Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: **93.041, 93.043, 93.044, 93.045, 93.052, and 93.053.**

5. **Recipient Data and Certification.**

- a. **Recipient Information.** Recipient shall provide the information set forth below.

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION**

**Recipient Name (exactly as filed with the IRS):** \_\_\_\_\_

Street address: \_\_\_\_\_

City, state, zip code: \_\_\_\_\_

Email address: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ Facsimile: (\_\_\_\_) \_\_\_\_\_

**Recipient Proof of Insurance.** Recipient shall provide the following information upon submission of the signed Agreement. All insurance listed herein must be in effect prior to Agreement execution.

Workers’ Compensation Insurance Company: \_\_\_\_\_

Policy #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

- b. **Certification.** Without limiting the generality of the foregoing, by signature on this Agreement, the Recipient hereby certifies under penalty of perjury that:

- (1) Recipient acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) that is made by (or caused by) the Recipient and that pertains to this Agreement or to the project for which the grant activities are being performed. Recipient certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Recipient further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Recipient;

- (2) The information shown in this Section 5a. “Recipient Information”, is Recipient’s true, accurate and correct information;
- (3) To the best of the undersigned’s knowledge, Recipient has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (4) Recipient and Recipient’s employees and agents are not included on the list titled “Specially Designated Nationals” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (5) Recipient is not listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal procurement or Non-procurement Programs” found at: <https://www.sam.gov/SAM>;
- (6) Recipient is not subject to backup withholding because:
  - (a) Recipient is exempt from backup withholding;
  - (b) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends; or
  - (c) The IRS has notified Recipient that Recipient is no longer subject to backup withholding; and
- (7) Recipient’s Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided is true and accurate. If this information changes, Recipient is required to provide ODHS with the new FEIN or SSN within 10 days.

**RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT RECIPIENT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

- 6. Signatures.** This Agreement and any subsequent amendments may be executed in several counterparts, 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 the Agreement and any amendments so executed shall constitute an original.

**Clackamas County  
Acting by and through its  
Clackamas County Social Services Division  
By:**

\_\_\_\_\_  
Authorized Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**State of Oregon acting by and through its Oregon Department of Human Services  
By:**

\_\_\_\_\_  
Authorized Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Approved for Legal Sufficiency:**

Approved via e-mail by Wendy J. Johnson, Senior Assistant Attorney General      9.21.2021  
Department of Justice      Date

**EXHIBIT A, Part 1**  
**Program Description**

- 1. Services to be Provided.** Area Agency on Aging (AAA) agrees to provide services consistent with the purposes, conditions, and restrictions of:

  - a.** ORS 410.210 through 410.250 under which AAA receives funding as applicable to Type A AAAs and ORS 410.270 through 410.300 applicable to Type B agencies.
  - b.** Title III and Title VII of the Older Americans Act of 1965, Pub.L. 89-73, (79 Stat. 218), approved July 14, 1965, as amended (“Older Americans Act”) and 45 CFR Part 1321 (Older Americans Act and 45 CFR Part 1321 collectively “OAA”).
  - c.** Oregon Project Independence (“OPI”) program as set out in ORS Chapter 410 and OAR Chapter 411, Division 032.
  - d.** Legislatively Special Purpose Allocation funding as appropriated to support programs to serve individuals with long-term services and supports regardless of eligibility for entitlement programs.
- 2. Area Plan.** AAA shall submit for approval to ODHS, as instructed, a comprehensive and coordinated four-year service delivery plan (hereafter referred to as the “Area Plan”). The Area Plan will be developed in accordance with Section 306 of the Older Americans Act and OAR 411-032-0005. AAA shall annually submit upon direction of ODHS an electronically updated Area Plan. The ODHS approved Area Plan will be held on file with the ODHS Community Services and Supports Unit. Request for the Area Plan and subsequent updates will be announced through established ODHS Action Request procedure. No funds will be authorized for use by AAA without submission and approval of the Area Plan.
- 3. Program Reporting Requirements.** AAA shall collect and report National Aging Program Information System (“NAPIS”) data as directed by ODHS for all OAA and OPI services provided, using ODHS provided software or a ODHS approved alternative collection and reporting method. AAA shall at a minimum reconcile reported service data to reported expenditures by end of business day on October 31<sup>st</sup> of each year. Request for said data will be announced using ODHS Action Request procedure.
- 4. Program Monitoring.** ODHS will conduct periodic monitoring and evaluation of performance management system for program activities and administrative practices conducted in accordance with Section 307(a)(4) of the Older Americans Act and OAR 411-032-0015; Oregon Project Independence, OAR Chapter 411, Division 032; and Area Agency on Aging, ORS 410.210 through 410.300:

  - a.** AAA agrees to participate with ODHS to develop a performance management framework to include objectives and metrics based on adherence to program standards as demonstrated through self-monitoring.
  - b.** AAA agrees to report progress towards these objectives and metrics utilizing agreed upon format and intervals.
  - c.** ODHS agrees to notify AAA in writing of intent to conduct onsite evaluation of

reported performance management data and AAA agrees to provide ODHS access to its facility(ies) and staff, all related program and fiscal documentation, AAA's subrecipient reports and any other related documentation to substantiate performance management reporting data.

## **5. Management Control Functions.**

- a. Criminal Records and Abuse Checks.** AAA agrees to utilize the ODHS Criminal Records Information Management System (CRIMS) to meet provider requirements set forth in OAR 407-007-0200 through 407-007-0370 and ORS 181A.195 through 181A.200 and ORS 443.004. Subject individuals are employees of the AAA; volunteers of AAA; employees and volunteers of AAA's subcontractors and direct care providers of consumers for which AAA provides service authorization. The process for a AAA employee's removal from service or dismissal shall adhere to AAA's dismissal policies and collective bargaining agreements, as applicable, to discharge an employee.
- b. Mandatory Reporting of Elder Abuse.** AAA shall ensure compliance with the mandatory reporting requirements of ORS 124.050 through 124.095 and OAR Chapter 411, Division 20 for employees and volunteers of the AAA as well as sub-contractor employees, volunteers and direct care providers for consumers for whom the AAA provides service authorization.
- c. Americans with Disabilities Act.** AAA will ensure public facilities used for the provision of OAA funded services meet the requirements as stated in Title II of the Americans with Disabilities Act of 1990, as amended ("ADA"), Section 504 of the Rehabilitation Act and ODHS Policy #010-005.
- d. Grievance Procedure.** AAA shall post the policy and procedure regarding how a consumer or family member may present a grievance concerning the operation of the Older Americans Act and Oregon Project Independence service programs.
- e. Competitive Procurement.** AAA in accordance with OAR 411-011-0005, agrees to competitively award funds by grant or contract to community service providers, agencies and organizations, except where, by means of AAA's Area Plan, ODHS has granted a waiver in accordance with 45 CFR Part 1321.63(b).

## **6. Information Systems.**

- a.** ODHS shall provide AAA with access to ODHS-owned applications necessary for the proper operation of NAPIS collection databases and administration of the Older Americans Act and Oregon Project Independence programs. Maintenance or trouble shooting services for the ODHS applications will be provided remotely; no on-site services will be available. Ownership of said software shall at all times remain with ODHS.
- b.** AAA shall be responsible for obtaining such internet access and LAN/WAN connectivity as are necessary to access ODHS-owned applications. Notwithstanding the provisions set forth in Exhibit B (Standard Terms and Conditions), paragraph 12 (Information Privacy/Security/Access) of this Agreement, when AAA is connected to the ODHS network, ODHS internet and network use policies apply, and as such, Agency's use of ODHS-owned

applications is subject to monitoring by the ODHS-OIS-Information Security Office.

- c. ODHS may provide an allocation for the purchase of information technology necessary for NAPIS reporting. ODHS shall not be responsible for maintenance of said technology.
- d. Upon request ODHS will provide the required specifications for computer compatibility with ODHS applications.

**7. Advisory Council.** Area Agency on Aging advisory councils are key to provide support for each AAA. The responsibilities for the AAA's council shall include the following requirements in accordance with ORS 410.210:

- a. AAA advisory council's membership shall follow requirements described in this section which depend on the type of AAA providing Older Americans Act or Oregon Project Independence Services and related support. Each area agency shall have an area agency advisory council, with members appointed by the area agency board, and appointments will be determined by the AAA.

(1) For a Type A area agency, membership of the council shall include consumers of services provided primarily to elderly persons under Oregon Department of Human Services programs, including low income and minority persons.

(2) A Type B area agency that serves elderly persons and persons with disabilities shall have two advisory councils. One shall include persons described in ORS 410.210(1)(b). The second shall be a disability services advisory council. That council shall have as a majority of its members persons with disabilities and shall include consumers of services and other interested persons. Any disability services advisory council in existence at the time the area agency assumes responsibility for providing services to persons with disabilities shall become the disability services advisory council for the area agency.

- b. Area agency advisory councils shall:

(1) Recommend basic policy guidelines for the administration of the activities of the area agencies on behalf of elderly persons or persons with disabilities and advise the area agency on questions of policy.

(2) Advise the area agency with respect to development of the area plan and budget, and review and comment on the completed area plan and budget before its transmittal to the Director of Oregon Department of Human Services.

(3) Meet at least quarterly. The meetings are subject to the Oregon public meeting law, ORS 192.610 to 192.690.

8. Nutrition Services Incentive Program (NSIP). NSIP provides grant funding from the Administration for Community Living (ACL) that supplements funding for food provided under the OAA congregate and home delivered meals programs. This funding must be used for the meals program and is not able to be carried forward to the next biennium. AAAs shall comply with the requirements for NSIP as stated in Section 311 of the OAA.
9. Continued Sequestration Mitigation. State general fund dollars to be used however the AAA needs to support OAA programs to mitigate funding gaps caused in part by federal sequestration of federal programming funds. This funding is not eligible to be carried forward into the next biennium.

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**EXHIBIT A, Part 2  
Disbursement and Financial Reporting**

- 1. Funding Appropriations.** The total sum payable for the period of July 1, 2021 through June 30, 2023, shall not exceed the amount described in Section 3 (“Grant Disbursement Generally”).
- a. ODHS, in accordance with the Older Americans Act, agrees to disburse grant funds to AAA as outlined in Oregon’s Intrastate Funding Formula.
  - b. Payment for all work performed under this Agreement shall be subject to the provisions of ORS 293.462 and disbursements under this Agreement shall both be based on the allocations as set forth in the table below and made on a reimbursement basis, upon ODHS approval of AAA’s disbursement request.

<b>Older Americans Act</b>	\$3,468,109	CFDA 93.041, 93.043, 93.044, 93.045, 93.052
<b>NSIP</b>	\$306,577	CFDA 93.053
<b>IT Admin Funds</b>	\$7,293	
<b>Continued Sequestration Mitigation</b>	\$214,495	
<b>Oregon Project Independence (age 60+ or age under 60 with an Alzheimer’s Disease or related disorder diagnosis)</b>	\$1,048,576	
<b>Oregon Project Independence (age 19-59 with disability)</b>	\$0	
<b>Unspent ’19-’21 Biennia Funding:</b>		CFDA 93.044, 93.045, 93.052
<b>FFCRA (\$0)</b>		
<b>CARES (\$177,256)</b>	\$407,831	
<b>HDC5 (\$230,575)</b>		
<b>Other State Funds</b>	\$0	
<b>Allocation Total</b>	<b>\$5,452,881</b>	

- c. AAA will be allowed to carry-forward into the 2023-2025 biennium no more than ten (10) percent of the full 2021-2023 biennial allocation of Older American Act Title IIIB, IIIC1, IIIC2, IIID, IIIE and VIIB funds not fully expended during the Agreement period.
- d. Funds carried forward from the prior biennium shall be expended prior to use of the current biennial allocation for the same Older Americans Act title.
- e. AAA shall, in accordance with the Older Americans Act, promptly and equitably

disburse Nutrition Services Incentive Program (“NSIP”) funds to its subcontractors. NSIP funds shall only be used for purchase of domestically produced food for AAA’s nutrition service programs. NSIP funds must be fully expended during the Agreement period. NSIP funds are not eligible to carry-forward into next biennium.

- f. If permitted by the federal Families First Coronavirus Response Act (FFCRA), AAA may use FFCRA emergency funding to provide for eligible OAA nutrition program services. Funds must be fully expended by September 30, 2022 and AAA shall timely provide any necessary reporting information requested by ODHS.
- g. If permitted by the federal CARES Act, AAA may use CARES Act Funding to provide for allowable OAA program services (Title IIIB, IIIC, & IIIE). Funds must be fully expended by September 30, 2022 and AAA shall timely provide any necessary reporting information requested by ODHS.
- h. If permitted by the federal Supplemental Nutrition Funding (HDC5), AAA may use HDC5 funds to provide allowable Home Delivery Nutrition Program Services (Title IIIC2). Funds must be fully expended by September 30, 2022 and AAA shall timely provide any necessary reporting information requested by ODHS.

## 2. **Fiscal Control Functions.**

- a. Federal Requirements. AAA shall maintain a financial management system that assures that state and federal funds used for activities under this Agreement are expended and accounted for in accordance with applicable state requirements and federal requirements as outlined in 2 CFR, Subtitle A, Chapter II, Part 200.
- b. Program Income.
  - (1) AAA shall ensure as required in OAA Section 315(b)(3) that no means testing for service eligibility will be conducted and as per OAA Section 315(b)(4)(A-D), all recipients of OAA services will be provided opportunity to voluntarily contribute towards cost of service and AAA has appropriate safeguards in place to account for all contributions. Said contribution, hereby referred to as program income shall be used by the AAA or AAA sub-contractor(s) for the sole purpose of expanding services in the program area in which collected in accordance with Section 315(b)(4)(E) of the Older Americans Act.
  - (2) AAA shall ensure that no fee, or cost-sharing practices, unless authorized by ODHS and permitted under Section 315(a)(1) of the Older Americans Act, will be assessed or imposed for OAA services.
  - (3) AAA shall, in accordance with OAR 411-032-0044, expend all OPI annual fees, monthly fees for service, and all contributions to expand OPI services.
- c. Access to Fiscal Records. AAA shall provide access to all fiscal records and to all other books, documents, papers, and records of AAA which are pertinent to this Agreement, and shall, without prior notification, allow ODHS the making of

excerpts, photocopies, and transcripts, and allow performance of audits and examination of all pertinent fiscal records and books, documents, papers, and records of AAA. Such access shall be freely allowed to state and federal personnel, including the Oregon Secretary of State's Office, and their duly authorized agents.

- d. Fiscal Monitoring – For one quarter of each biennium the financial records that support the Monthly ODHS Form 148/150 (Form “148/150”) will be sent into APD. The schedule will be set before the biennium begins so contractor will have advance notice of fiscal monitoring timeline. During the quarter of fiscal monitoring the 148/150 will not be reimbursed until contractor has supplied all required documentation to APD.
- e. Fiscal Reporting, Reimbursement Requests, and Payments.
- (1) AAA shall, when requesting working capital, submit Form SPD 150-WC to ODHS Accounting and Financial Services at a minimum 7 days prior to requisite receipt of funds. AAA shall estimate program expenses separate from estimated administrative expenses and detail such expenses by fund source (e.g., Title IIIB, IIIC1, IIIC2, IIID, IIIE, and VIIB of the Older Americans Act, CARES Act, FFCRA, OPI, NSIP, etc.).
  - (2) AAA shall submit electronically to APD Community Services and Supports Unit and ODHS Accounting and Financial Services at the electronic address below using Form 148/150 a monthly reimbursement request for all grant expenditures no later than the 35th day of the following month. ODHS agrees to process and make payments of all reimbursement requests within 30 days following receipt of an approved request.
  - (3) AAA agrees that ODHS may decrease AAA's OPI allocation for incurred home-care worker ("HCW") expenses, which includes the hourly rate of salary (subject to change based on the HCW collective bargaining agreement) and Federal and State Unemployment Tax Act (FUTA/SUTA), Workman's Compensation tax (WC/WCD) and Federal Insurance Contributions Act (FICA).
  - (4) AAA shall, no later than 90 days (September 30) from the conclusion of the state fiscal year end (June 30), electronically submit a FINAL fiscal year-end Form 148/150 to ODHS Aging & People with Disabilities, Community Services and Supports Unit's e-mail address of *sua.email@state.or.us* and,
  - (5) AAA shall, no later than 180 days (December 31) from the conclusion of the state fiscal year-end (June 30), electronically submit a FINAL AUDITED Form 148/150 signed by AAA Director to ODHS Aging & People with Disabilities, Community Services and Supports Unit's e-mail address of *sua.email@state.or.us* and,
  - (6) AAA shall submit one electronic copy of the AAA's fiscal year-end Financial Audit no later than 180 days (December 31) from the conclusion

of the state fiscal year-end (June 30) to ODHS Aging & People with Disabilities, Community Services and Supports Unit's e-mail address of [sua.email@state.or.us](mailto:sua.email@state.or.us) and,

**f. Special Funding Requests.**

- (1) OAA Fund Transfers.** Beginning October 1st, but not later than June 30th of each fiscal year AAA may, as authorized by ODHS and when necessary to meet the needs of the area served, request to transfer Title IIIB, Title IIIC1 and Title IIIC2 funds as permitted in Section 308(b)(4)(A) and (5)(A) of the Older Americans Act.

  - (a) Request for transfer shall be electronically submitted using a form provided by ODHS and submitted to [sua.email@state.or.us](mailto:sua.email@state.or.us).
  - (b) Upon receipt of transfer authorization, AAA shall post transfer amounts on Form 150, page 1. Failure to do so will result in disqualification of transferred funds.
  - (c) Maximum transfers shall be as follows:

    - i. Not to exceed thirty percent (30%) for any fiscal year from Title IIIB into Title IIIC; or thirty percent (30%) from Title IIIC into Title IIIB; and
    - ii. Not to exceed forty percent (40%) for any fiscal year between Title IIIC1 and Title IIIC2; and
  - (d) When in the best interest of the OAA service recipients, AAA may elect to submit a written explanation of necessity and request ODHS to provide a waiver of the maximum percentage limits.
- (2) Fund Matrix #20-3 Program Coordination & Development.** Beginning July 1 of year one of the biennium, AAA may request to utilize OAA Title IIIB funds for program coordination and development activities.

  - (a) Request for transfer shall be electronically submitted using a form provided by ODHS and submitted to [sua.email@state.or.us](mailto:sua.email@state.or.us).
  - (b) In accordance with 45 CFR 1321.17(14)(ii) the AAA will submit details of program coordination and development to the general public for review and comment.
  - (c) Authorization from State is consistent with biannual budget cycle.
- (3) Oregon Project Independence Other Authorized Services.** At any time during the biennial funding period, AAA may request to utilize OPI funding for services other than those detailed in OAR 411-032-0010(1)(a).

  - (a) Request to utilize OPI funding for other services shall be electronically submitted using a form provided by ODHS and submitted to [sua.email@state.or.us](mailto:sua.email@state.or.us).
  - (b) Other authorized services may include services to support community caregivers, evidence-based health promotion services,

options counseling, and transportation services.

(c) Authorization shall terminate at the end of each fiscal year.

**g.** OAA Minimum Expenditure Requirements. AAA shall in accordance with OAA Section 307(a)(2) of the Older Americans Act and as established by ODHS:

- (1) Expend, at a minimum, 3% of Title IIIB funds for In-Home Services as defined in Section 102(a)(30)(A-G) of the Older Americans Act.
- (2) Expend, at a minimum, 3% of Title IIIB funds for legal assistance as described in Section 307(a)(11)(E) of the Older Americans Act,
- (3) Expend, at a minimum, 18% of Title IIIB funds for access services as described in Section 306(a)(2)(A) of the Older Americans Act and;
- (4) The required minimum Title IIIB fund expenditure shall be based on total funds after transfer if AAA employed the transfer options as outlined in Exhibit A, Part 2, 2f(1) titled OAA Fund Transfers.
- (5) Funding for Title IIID, Section 361 of the Older Americans Act for Disease Prevention and Health Promotion may only be used for programs and activities which have been demonstrated through rigorous evaluation to be evidence-based and effective.

**h.** OAA Maximum Expenditure Requirements. AAA shall, in accordance with Section 304(d)(1)(A) of the Older Americans Act, not exceed a maximum 10% of Title III expenditures for administration and such amount can only be taken from funds allocated for Title IIIB, IIIC1, IIIC2 and IIIE services.

- (1) AAA shall, in accordance with 45 CFR Part 1321.17(f)(14)(i) and as authorized by ODHS, only fund program development and coordination activity after first expending the full 10% in administrative expenses and when such expenditure will have a direct and positive impact on the enhancement of services and only after the general public has been provided with notification to review and comment. A request for program development and coordination funding shall be electronically submitted using a form provided by ODHS and shall be received by the Community Services and Supports Unit no later than end of business on September 30th of a fiscal year.
- (2) AAA shall in accordance with Section 373(g)(2)(C) of the Older Americans Act expend no more than 10% of the total Federal and non-Federal share of the Title IIIE funds to support services to grandparents and older relatives who are relative caregivers of a child no more than 18 years of age.

**i.** OAA Match Requirements. AAA shall, as required in Sections 309(b)(1) and 373(g)(2) of the Older Americans Act, match expenditures with cash or in-kind resources of non-federal means such as local or state sources as follows:

- (1) Federal funds may not pay for more than 75% of the total administrative expenditures for Title IIIB, IIIC1, IIIC2 and IIIE services. The required

match is calculated using the following formula: (Total Administrative Expenditures to be charged to Federal funds/.75)-(Total Administrative Expenditures to be charged to Federal funds). Example:  $100/.75=133$ ;  $133-100=33$ ; the required match is 33.

- (2) Federal funds may not pay for more than 85% of the total expenditures for Title IIIB, IIIC1 and IIIC2 services. AAA is required to meet 2/3 of the required match which is calculated using the following formula: (Total Service Expenditures to be charged to Federal funds/.85) - (Total Service Expenditures to be charged for Title IIIB, IIIC1, and IIIC2 services) X .67. Example:  $100/.85=118$ ;  $118-100=18$ ;  $18 \times .67=12$ ; the required match is 12.
- (3) Federal funds may not pay for more than 75% of expenditures for Title IIIE services. The required match is calculated using the following formula: (Total Service Expenditures for Title IIIE services/.75) – (Total Service Expenditures for Title IIIE services). Example:  $100/.75=133$ ;  $133-100=33$ ; the required match is 33.

## EXHIBIT A

### Part 3 Special Provisions

1. **HIPAA Compliance.** As a Business Associate of a Covered Entity, ODHS must comply with the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), and ODHS must also comply with OAR 943-014-0400 through OAR 943-014-0465. Recipient is a Business Associate of ODHS and therefore must comply with OAR 943-014-0400 through OAR 943-014-0465 and the Business Associate requirements set forth in 45 CFR 164.502 and 164.504.  
  
Recipient shall be liable to ODHS for any and all costs incurred by ODHS, including, but not limited to, costs of issuing any notices required by HIPAA, HITECH or any other applicable law and damages to third parties as a result of Recipient's Breach of Unsecured Protected Health Information.
  - a. **Consultation and Testing.** If Recipient reasonably believes that the Recipient's or ODHS' data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Recipient shall promptly consult the ODHS Information Security Office. Recipient or ODHS may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the ODHS testing schedule.
  - b. **Data Transactions Systems.** If Recipient intends to exchange electronic data transactions with ODHS or the Oregon Health Authority (OHA) in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, Recipient shall execute an Electronic Data Interchange (EDI) Trading Partner Agreement and shall comply with EDI Rules set forth in OAR 943-120-0110 through 943-120-0160.
  
2. **Confidentiality of Information.**
  - a. Consumer Information:
    - (1) All information as to personal facts and circumstances obtained by the Recipient on the consumer ("Consumer Information") shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the consumer, his or her guardian, or the responsible parent when the consumer is a minor child, or except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
    - (2) The use or disclosure of Consumer Information shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.

- (3) ODHS, Recipient and any subcontractor will share information as necessary to effectively serve ODHS consumers.

**b. Non-Consumer Information:**

- (1) Each Party acknowledges that it and any of its officers, directors, employees and agents may, in the course of performing its responsibilities under the Agreement, be exposed to or acquire information that is confidential to the other Party. To the extent permitted by law, any and all information of any form provided to a Party or its officers, directors, employees and agents in the performance of the Agreement that reasonably could at the time of its disclosure be understood to be confidential shall be deemed to be confidential information of the originating Party (“Confidential Non-Consumer Information”).
- (2) Confidential Non-Consumer Information shall be deemed not to include information that:
  - (a) Is or becomes (other than by disclosure by the Party acquiring such information) publicly known or is contained in a publicly available document except to the extent applicable law still restricts disclosure;
  - (b) Is furnished by the originating Party to others without restrictions similar to those imposed on the receiving Party under the Agreement;
  - (c) Is rightfully in the receiving Party’s possession without the obligation of nondisclosure prior to the time of its disclosure by the originating Party under the Agreement;
  - (d) Is obtained from a source other than the originating Party without the obligation of confidentiality;
  - (e) Is disclosed with the written consent of the originating Party; or
  - (f) Is independently developed by the receiving Party’s officers, directors, employees and agents who can be shown to have had no access to the Confidential Non-Consumer Information.
- (3) Nondisclosure. The receiving Party shall hold all Confidential Non-Consumer Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own confidential information; shall not sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Non-Consumer Information to third parties; shall not use Confidential Non-Consumer Information for any purposes whatsoever other than as contemplated by this Agreement or reasonably related thereto; and shall advise any of its officers, directors, employees and agents that receive or have access to the Confidential Non-Consumer Information of their obligations to keep Confidential Non-Consumer Information confidential. These confidentiality obligations do not restrict disclosure of information



otherwise qualifying as Confidential Non-Consumer Information if the receiving Party can show that either of the following conditions exists: (i) the information was disclosed in response to a subpoena or court order duly issued in a judicial or legislative process, in which case the receiving Party shall notify the originating Party of the subpoena five days prior to the disclosure, unless such notice could not reasonably be given; or (ii) the disclosure was required to respond to a request for the information made under the Oregon Public Records Law, ORS 192.410 to 192.505. The receiving Party shall notify the originating Party of a public records request five days prior to the disclosure.

- c. Upon request and pursuant to the instructions of ODHS, Recipient shall return or destroy all copies of Confidential Information, and Recipient shall certify in writing the return or destruction of all Confidential Information.
- d. For the purposes of this Exhibit A, Part 3, "Consumer" (or Client, interchangeably) means any individual, family or Provider.
  - (1) For whom an Agency must provide Services and incidental or specialized Goods, in any combination thereof ("Services and Incidental Supplies"), according to state, federal law, rule, and policy. Those Services and Incidental Supplies include but are not limited to treatment, care, protection, and support without regard to the proximity of the services being provided;
  - (2) Who in fact receives and utilizes services provided by an Agency primarily for that individual's or family's benefit;
  - (3) Who is under the custody, care, or both of the Agency; or
  - (4) Who provides direct care or Services and is a proxy or representative of the non-Provider Consumer.

**3. Privacy and Security.** Recipient shall ensure all staff, volunteers, and subcontractors who provides services under this agreement complete an annual information privacy and security training to ensure understanding and adherence to acceptable privacy and security practices. This training can be self-provided or taken through ODHS at the Recipient's discretion. Tracking the completion/compliance of this training requirement will be the responsibility of the Recipient, who will have the records available for viewing as needed by the ODHS.

**4. Service Equity.** As part of a shared goal and intent to address and mitigate systematic racism through the incorporation of service equity in all aspects of the administration of Oregon's aging network, AAAs agree to partner with the ODHS to develop strategies, goals, and objectives to operationalize the ODHS' commitment to embracing service equity in all the work shared. AAAs will actively participate and contribute to this initiative and process.

**5. Major Disaster Declaration Number DR4499OR Agreement Provisions.** With this Agreement, ODHS is acquiring certain services for the purpose of responding to the state of emergency declared by the Governor on Saturday, March 7, 2020 and pursuant to the Major Disaster Declaration number DR4499OR as a direct result of COVID-19. ODHS

has received funding from the federal government to respond to the state of emergency, including, but not limited to, FEMA and resources provided by the Families First Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security (CARES) Act, for the costs. Recipient shall provide to ODHS timely reports that provide enough detail to ODHS' reasonable satisfaction in order to comply with federal requirements for the funding.

6. **NAPIS Program Reporting.** Data entry of NAPIS data and service units is a critical function of AAAs and must be completed timely. The timeliness of this data is essential for management reports and to respond to legislative questions and inquiries. AAAs must follow ODHS required timelines for this data entry or be subject to administrative withholding of a portion of funding until required data has been appropriately entered. Any necessary withholding of funds will be progressive in accordance with the frequency in which the AAA is late on data submission, starting with a 5% withhold for the first delay and increasing 5% with each repeated instance, up to a maximum of 25% withheld. It is the ODHS' intent and direction that this data be input on a monthly basis, in systems identified by the ODHS, and with all data for a given month being entered by the final day of the subsequent month.

## EXHIBIT B

### Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, “Claim”) between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives 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. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.
2. **Compliance with Law.** Both parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County and ODHS, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers’ Compensation coverage, unless such employers are exempt under ORS 656.126. Nothing in this Agreement shall require County or ODHS to act in violation of state or federal law or the Constitution of the State of Oregon.
3. **Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that County is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Representations and Warranties.**
  - a. County represents and warrants as follows:
    - (1) **Organization and Authority.** County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. County has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

- (2) Due Authorization. The making and performance by County of this Agreement (a) have been duly authorized by all necessary action by County and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.
  - (3) Binding Obligation. This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
  - (4) County has the skill and knowledge possessed by well-informed members of its industry, trade or profession and County will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in County's industry, trade or profession;
  - (5) County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
  - (6) County prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.
- b.** ODHS represents and warrants as follows:
- (1) Organization and Authority. ODHS has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.
  - (2) Due Authorization. The making and performance by ODHS of this Agreement (a) have been duly authorized by all necessary action by ODHS and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which ODHS is a party or by which ODHS may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by ODHS of this Agreement, other than approval by the Department of Justice if required by law.

(3) **Binding Obligation.** This Agreement has been duly executed and delivered by ODHS and constitutes a legal, valid and binding obligation of ODHS, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

c. **Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**5. Funds Available and Authorized Clause.**

a. The State of Oregon's payment obligations under this Agreement are conditioned upon ODHS receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow ODHS, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. County is not entitled to receive payment under this Agreement from any part of Oregon state government other than ODHS. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. ODHS represents that as of the date it executes this Agreement, it has sufficient appropriations and limitation for the current biennium to make payments under this Agreement.

b. **Payment Method.** Payments under this Agreement will be made by Electronic Funds Transfer (EFT) and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, County shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. County shall maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Agreement. County shall provide this designation and information on a form provided by ODHS. In the event that EFT information changes or County elects to designate a different financial institution for the receipt of any payment made using EFT procedures, County shall provide the changed information or designation to ODHS on an ODHS-approved form. ODHS is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from County.

**6. Recovery of Overpayments.** If any funds disbursed under this Agreement, or under any other Agreement between County and ODHS, result in payments to County to which County is not entitled, ODHS, after giving to County written notification and an opportunity to object, may withhold from payments due to County such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if County objects to the withholding or the amount proposed to be withheld, County shall notify ODHS that it wishes to engage in dispute resolution in accordance with Section 18 of this Agreement.

**7. Ownership of Intellectual Property.**

- a. Definitions.** As used in this Section 7 and elsewhere in this Agreement, the following terms have the meanings set forth below:

  - (1) “County Intellectual Property” means any intellectual property owned by County and developed independently from the Work.
  - (2) “Third Party Intellectual Property” means any intellectual property owned by parties other than ODHS or County.
- b.** Except as otherwise expressly provided herein, or as otherwise required by state or federal law, ODHS will not own the right, title and interest in any intellectual property created or delivered by County or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that County owns, County grants to ODHS a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property, (2) authorize third parties to exercise the rights set forth in Section 7.b.(1) on ODHS’ behalf, and (3) sublicense to third parties the rights set forth in Section 7.b.(1).
- c.** If state or federal law requires that ODHS or County grant to the United States a license to any intellectual property, or if state or federal law requires that ODHS or the United States own the intellectual property, then County shall execute such further documents and instruments as ODHS may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or ODHS. To the extent that ODHS becomes the owner of any intellectual property created or delivered by County in connection with the Work, ODHS will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to County to use, copy, distribute, display, build upon and improve the intellectual property.
- d.** County shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as ODHS may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

**8. County Default.** County shall be in default under this Agreement upon the occurrence of any of the following events:

- a.** County fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
- b.** Any representation, warranty or statement made by County herein or in any documents or reports relied upon by ODHS to measure the delivery of Work, the expenditure of payments or the performance by County is untrue in any material respect when made;

- c. County (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or
- d. A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (3) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

9. **ODHS Default.** ODHS shall be in default under this Agreement upon the occurrence of any of the following events:

- a. ODHS fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein; or
- b. Any representation, warranty or statement made by ODHS herein or in any documents or reports relied upon by County to measure performance by ODHS is untrue in any material respect when made.

10. **Termination.**

a. **County Termination.** County may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to ODHS;
- (2) Upon 45 days advance written notice to ODHS, if County does not obtain funding, appropriations and other expenditure authorizations from County's governing body, federal, state or other sources sufficient to permit County to satisfy its performance obligations under this Agreement, as determined by County in the reasonable exercise of its administrative discretion;
- (3) Upon 30 days advance written notice to ODHS, if ODHS is in default under this Agreement and such default remains uncured at the end of said

30-day period or such longer period, if any, as County may specify in the notice; or

- (4) Immediately upon written notice to ODHS, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement.

**b. ODHS Termination.** ODHS may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to County;
- (2) Upon 45 days advance written notice to County, if ODHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of ODHS under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, ODHS may terminate this Agreement, immediately upon written notice to County or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces ODHS' legislative authorization for expenditure of funds to such a degree that ODHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;
- (3) Immediately upon written notice to County if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that ODHS no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;
- (4) Upon 30 days advance written notice to County, if County is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as ODHS may specify in the notice;
- (5) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that County or a subcontractor no longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification; or
- (6) Immediately upon written notice to County, if ODHS determines that County or any of its subcontractors have endangered or are endangering



the health or safety of a client or others in performing work covered by this Agreement.

- c. **Mutual Termination.** The Agreement may be terminated immediately upon mutual written consent of the parties or at such time as the parties may agree in the written consent.

**11. Effect of Termination.**

**a. Entire Agreement.**

- (1) Upon termination of this Agreement, ODHS shall have no further obligation to pay County under this Agreement.
- (2) Upon termination of this Agreement, County shall have no further obligation to perform Work under this Agreement.

- b. **Obligations and Liabilities.** Notwithstanding Section 11.a., any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.

**12. Limitation of Liabilities.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

**13. Insurance.** County shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.

**14. Records Maintenance; Access.** County shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, County shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of County, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document County's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of County whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." County acknowledges and agrees that ODHS and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. County shall retain and keep accessible all Records for a minimum of six years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. County shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

**15. Information Privacy/Security/Access.** If the Work performed under this Agreement requires County or its subcontractor(s) to have access to or use of any ODHS computer system or other ODHS Information Asset for which ODHS imposes security

requirements, and ODHS grants County or its subcontractor(s) access to such ODHS Information Assets or Network and Information Systems, County shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this section, “Information Asset” and “Network and Information System” have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.

- 16. Force Majeure.** Neither ODHS nor County shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, or war which is beyond the reasonable control of ODHS or County, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. ODHS may terminate this Agreement upon written notice to the other party after reasonably determining that the delay or breach will likely prevent successful performance of this Agreement.
- 17. Assignment of Agreement, Successors in Interest.**

  - a.** County shall not assign or transfer its interest in this Agreement without prior written approval of ODHS. Any such assignment or transfer, if approved, is subject to such conditions and provisions as ODHS may deem necessary. No approval by ODHS of any assignment or transfer of interest shall be deemed to create any obligation of ODHS in addition to those set forth in the Agreement.
  - b.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.
- 18. Alternative Dispute Resolution.** The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- 19. Subcontracts.** County shall not enter into any subcontracts for any of the Work required by this Agreement without ODHS’ prior written consent. In addition to any other provisions ODHS may require, County shall include in any permitted subcontract under this Agreement provisions to require that ODHS will receive the benefit of subcontractor performance as if the subcontractor were County with respect to Sections 1, 2, 3, 4, 7, 15, 16, 18, 19, 20, and 22 of this Exhibit B. ODHS’ consent to any subcontract shall not relieve County of any of its duties or obligations under this Agreement.
- 20. No Third Party Beneficiaries.** ODHS and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that County’s performance under this Agreement is solely for the benefit of ODHS to assist and enable ODHS to accomplish its statutory mission. 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 any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

21. **Amendments.** No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and, when required, approved by the Department of Justice. Such amendment, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.
22. **Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
23. **Survival.** Sections 1, 4, 5, 6, 7, 10, 12, 13, 14, 15, 18, 20, 21, 22, 23, 24, 25, 26, 27, and 28 of this Exhibit B shall survive Agreement expiration or termination as well as those the provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.
24. **Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to County or ODHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day if transmission was outside normal business hours of the recipient. Notwithstanding the forgoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.  
  
**ODHS:** Office of Contracts & Procurement  
635 Capitol Street NE, Suite 350  
Salem, OR 97301  
Telephone: 503-945-5818  
Facsimile: 503-378-4324
25. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
26. **Waiver.** The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.
27. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the

Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

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

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

- 28. Indemnification by Subcontractors.** County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

- 29. Stop-Work Order.** ODHS may, at any time, by written notice to County, require County to stop all, or any part of the work required by this Agreement for a period of up to 90 days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, County shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the stop work order notice. Within a period of 90 days after issuance of the written notice, or within any extension of that period to which the parties have agreed, ODHS shall either:
- a.** Cancel or modify the stop work order by a supplementary written notice; or
  - b.** Terminate the work as permitted by either the Default or the Convenience provisions of Section 10. Termination.

If the Stop Work Order is canceled, ODHS may, after receiving and evaluating a request by County, make an adjustment in the time required to complete this Agreement and the Agreement price by a duly executed amendment.

**EXHIBIT C**  
**SUBCONTRACTOR INSURANCE**

Local Government shall require its first tier contractor(s) (Contractor) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, CONTINUOUS CLAIMS MADE COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between Local Government and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. Local Government shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Local Government shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Local Government shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall Local Government permit a contractor to work under a Subcontract when the Local Government is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

**WORKERS' COMPENSATION & EMPLOYERS' LIABILITY**

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

**COMMERCIAL GENERAL LIABILITY:**

**Required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Agreement, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$4,000,000.00 per occurrence. Annual aggregate limit shall not be less than \$4,000,000.00.

**AUTOMOBILE LIABILITY INSURANCE:**

**Required**     **Not required**

Automobile Liability Insurance covering Recipient's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$4,000,000.00 for bodily

injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

**PROFESSIONAL LIABILITY:**

Required  Not required

Professional Liability covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Agreement by the Recipient and Recipient's subcontractors, agents, officers or employees in an amount not less than \$\_\_\_\_\_per claim. Annual aggregate limit shall not be less than \$\_\_\_\_\_. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Recipient shall provide continuous claims made coverage as stated below.

**NETWORK SECURITY AND PRIVACY LIABILITY:**

Required  Not required

Recipient shall provide network security and privacy liability insurance for the duration of the Agreement and for the period of time in which Recipient (or its Business Associates or subcontractor(s)) maintains, possesses, stores or has access to ODHS or client data, whichever is longer, with a combined single limit of no less than \$\_\_\_\_\_per claim or incident. This insurance shall include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of ODHS or client data (which may include, but is not limited to, Personally Identifiable Information ("PII"), Payment Card Data and Protected Health Information ("PHI")) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of ODHS data.

**POLLUTION LIABILITY:**

Required  Not required

Pollution Liability Insurance covering Recipient's or appropriate subcontractor's liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related cleanup costs incurred by Recipient, all arising out of the Goods delivered or Services (including transportation risk) performed under this Agreement is required. Combined single limit per occurrence shall not be less than \$\_\_\_\_\_. Annual aggregate limit shall not be less than \$\_\_\_\_\_.

An endorsement to the Commercial General Liability or Automobile Liability policy, covering Recipient's or subcontractor's liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related clean-up cost incurred by the Recipient that arise from the Goods delivered or Services (including transportation risk) performed by Recipient under this Agreement is also acceptable.

**EXCESS/UMBRELLA INSURANCE:** A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

**ADDITIONAL INSURED:** All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Agreement must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with

respect to liability arising out of ongoing operations and completed operations, but only with respect to Recipient's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

**WAIVER OF SUBROGATION:** Recipient must require its first-tier contractors and subrecipients waive rights of subrogation which Recipient's first tier contractors and subrecipients, if any, or any insurer of Recipient may acquire against the ODHS or State of Oregon by virtue of the payment of any loss. Recipient will require its first-tier contractors and subrecipients to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the ODHS has received a waiver of subrogation endorsement.

**CONTINUOUS CLAIMS MADE COVERAGE:** If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Recipient shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Grant Agreement, for a minimum of 24 months following the later of:

- (i) Recipient's completion and ODHS' acceptance of all Services required under the Agreement, or
- (ii) Agency or Recipient termination of this Agreement, or
- (iii) The expiration of all warranty periods provided under this Agreement.

**CERTIFICATE(S) AND PROOF OF INSURANCE:** Recipient shall provide to ODHS Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Agreement. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Agreement. 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. As proof of insurance ODHS has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Agreement.

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

**INSURANCE REQUIREMENT REVIEW:** Recipient agrees to periodic review of insurance requirements by ODHS under this Agreement and to provide updated requirements as mutually agreed upon by Recipient and ODHS.

**STATE ACCEPTANCE:** All insurance providers are subject to ODHS acceptance. If requested by ODHS, Recipient shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to ODHS' representatives responsible for verification of the insurance coverages required under this Section.



## EXHIBIT D

### Federal Terms and Conditions

**General Applicability and Compliance.** Unless exempt under 45 Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, Recipient shall comply and, as indicated, require all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to Recipient, or to the grant activities, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** Recipient shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of grant activities. Without limiting the generality of the foregoing, Recipient expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of ODHS Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide grant activities in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then Recipient shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$100,000 then Recipient shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to ODHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Recipient shall include and require all subcontractors to include in all

contracts with subcontractors receiving more than \$100,000.00, language requiring the subcontractor to comply with the federal laws identified in this Section.

4. **Energy Efficiency.** Recipient shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, the Recipient certifies, to the best of the Recipient's knowledge and belief that:
  - a. No federal appropriated funds have been paid or will be paid, by or on behalf of Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
  - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Recipient shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
  - c. The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
  - d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
  - e. No part of any federal funds paid to Recipient under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

- f.** No part of any federal funds paid to Recipient under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
  - g.** The prohibitions in subsections (e) and (f) of this Section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
  - h.** No part of any federal funds paid to Recipient under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
- 6. Resource Conservation and Recovery.** Recipient shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
- 7. Audits.**
- a.** Recipient shall comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
  - b.** If Recipient expends \$750,000.00 or more in federal funds (from all sources) in a federal fiscal year, Recipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to ODHS within 30 days of completion. If Recipient expends less than \$750,000.00 in a federal fiscal year, Recipient is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, “Records Maintenance; Access”.
- 8. Debarment and Suspension.** Recipient shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal Procurement or

Nonprocurement Programs” in accordance with Executive Orders No. 12549 and No. 12689, “Debarment and Suspension” (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

9. **Pro-Children Act.** Recipient shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. 6081 et. seq.).
10. **Medicaid Services.** Recipient shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. 1396 et. seq., including without limitation:
  - a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
  - b. Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
  - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 Subpart I.
  - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Recipient shall acknowledge Recipient’s understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
  - e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. 1396a(a)(68).
11. **Agency-based Voter Registration.** If applicable, Recipient shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.
12. **Disclosures.**
  - a. 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address

(including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b.** Recipient shall furnish to the State Medicaid agency or to the Health and Human Services (HHS) Secretary, within 35 days of the date of the request, full and complete information about the ownership of any subcontractor with whom the Recipient has had business transactions totaling more than \$25,000 during the previous 12 month period ending on the date of the request, and any significant business transactions between the Recipient, and any wholly owned supplier or between the Recipient and any subcontractor, during the five year period ending on the date of the request. See, 42 CFR 455.105.
  - c.** 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
  - d.** As such, Recipient must disclose any person with a 5% or greater direct or indirect ownership interest in the Recipient whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or Title XXI program in the last 10 years.
  - e.** Recipient shall make the disclosures required by this Section 12. to ODHS. ODHS reserves the right to take such action required by law, or where ODHS has discretion, as it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.
- 13. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the activities performed under this Agreement, may have certain rights as set forth in the federal requirements pertinent to

these funds. For purposes of this subsection, the terms “grant” and “award” refer to funding issued by the federal funding agency to the State of Oregon. The Recipient agrees that it has been provided the following notice:

- a.** The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work, and to authorize others to do so, for Federal Government purposes with respect to:
  - (1) The copyright in any work developed under a grant, subgrant or contract under a grant or subgrant; and
  - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
- b.** The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.”
- c.** The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or contract under a grant or subgrant.

- 14. Federal Whistleblower Protection.** Recipient shall comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Enhancement of contractor protection from reprisal for disclosure of certain information.

## **EXHIBIT E**

### **Information Required by 2 CFR § 200.332(a)(1)\***

All required data elements in accordance with 2 CFR 200.332(a)(1) are available at <https://www.oregon.gov/DHS/SENIORS-DISABILITIES/SUA/Pages/AAA-Financial.aspx>

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**EXHIBIT F**  
**Privacy and Security Agreement**

1. **PURPOSE.** Recipient requires the Access described in Exhibit F-1, *Third Party Information System Access Request* (Form MSC 0785), which is hereby incorporated into this Exhibit F by reference, to conduct Grant Activities. The terms and conditions of this Privacy and Security Agreement govern:
  - 1.1. Recipient's Use of Data;
  - 1.2. Recipient's Access to ODHS' Information Assets and Systems;
  - 1.3. The periodic exchange of Data between ODHS' and Recipient's systems via electronic means; and
  - 1.4. The interconnection between ODHS' and Recipient's respective networks and information systems.
2. **TERM.** This Privacy and Security Agreement is effective for a period coterminous with the Agreement, subject to review at least annually by ODHS, unless terminated earlier by either party in accordance with the "Suspension or Termination" section of this Privacy and Security Agreement.
3. **DEFINITIONS.** The following definitions apply to this Privacy and Security Agreement:
  - 3.1. "Access" means the ability or the means necessary to read, communicate, or otherwise use ODHS or State Data, Network and Information Systems, and Information Assets
  - 3.2. "Breach" means the acquisition, access, exposure, use, or disclosure of Data or an Information Asset in a manner not in compliance with applicable law, rule, or policy, or Data loss, misuse, or compromise.
  - 3.3. "Client Records" includes any client, applicant, or participant information regardless of the media or source, collected by Recipient in the course of completing the Grant Activities, provided through the Network and Information Systems to Recipient, or otherwise exchanged between the parties.
  - 3.4. "Data" means information created, transmitted, or stored through the Network and Information Systems, including metadata, personal information, and Client Records.
  - 3.5. "Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of any Network and Information System or Information Asset. An Incident is an observable, measurable occurrence that is a deviation from expected operations or activities. An Incident may be a Breach, failure to protect a User's identification (ID), or theft of computer equipment that uses or stores any Information Asset.
  - 3.6. "Individual Access Request (IAR)" refers to the ODHS form used to authorize a User, identify the User's job assignment, and the required access to Network and



Information System(s). It generates a unique alpha/numeric code used to access the ODHS Network and Information Systems.

- 3.7. "Information Asset(s)" refers to all information provided through ODHS, regardless of the source, which requires measures for security and privacy. Includes Data.
- 3.8. "Network and Information System(s)" means ODHS' and the State of Oregon's computer infrastructure which provides personal communications; Data such as Client Records; Access to other Information Assets, regional, wide area, and local networks; and the internetworking of various types of networks.
- 3.9. "User" means any individual authorized to access Network and Information Systems and who has an been assigned a unique log-on identifier.

**4. CHANGES TO PRIVACY AND SECURITY AGREEMENT.** Other than as allowed under this section, Recipient shall be requested to submit input to a revised *Third Party Information System Access Request* (Form MSC 0785), to request changes to Exhibit F. ODHS will review Recipient's request and, if approved in writing by ODHS, the parties will amend the Agreement in accordance with Exhibit B, Section 21.

- 4.1. **Point of Contact Changes.** Each party will provide notification to the other of any change of its respective point(s) of contact noted in Exhibit F-1, including any technical lead, and name an interim or replacement person in any such notice. Exhibit F-1 will be deemed amended to include the updated information.
- 4.2. **Administrative Changes.** Recipient may request updates to Exhibit F that are administrative in nature and do not modify the mode of Access or type of data by submitting a written request to ODHS. Upon written acceptance by ODHS, Exhibit F will be deemed amended to include the updated information.

## **5. NOTIFICATIONS.**

- 5.1. **Points of Contact.** The parties have designated their respective technical leads in Exhibit F-1. The parties will facilitate direct contacts between technical leads. The parties will provide notification to the other of any changes in technical point of contact information.
- 5.2. **Breach Notification.** In the event Recipient or its subcontractors or agents discover or are notified of an Incident or a Breach, including a failure to comply with Recipient's confidentiality obligations under this Agreement, Recipient shall immediately notify ODHS' Program Sponsor identified in Section 4 of Exhibit F (or delegate) of the Incident or Breach. If ODHS determines that an Incident or Breach requires notification of ODHS clients, or other notification required by law, ODHS will have sole control over the notification content, timing, and method, subject to Recipient's obligations under applicable law.
- 5.3. **Requests for Data.** In the event Recipient receives a third-party request for Data, including any electronic discovery, litigation hold, or discovery searches, Recipient shall first give ODHS notice and provide such information as may be reasonably necessary to enable ODHS to protect its interests.

- 5.4. **Changes in Law.** Each party will provide notice to the other of any change in law, or any other legal development, which may significantly affect its ability to perform its obligations.
6. **GRANT OF LICENSE.** Subject to Recipient’s compliance with the Agreement, Recipient is hereby granted a non-exclusive, non-transferable, and revocable authorization to Access and use Information Assets only in accordance with this Agreement and applicable laws, rules, and policies. Recipient and its employees, contractors, and agents shall not manipulate any URL or modify, publish, transmit, reverse engineer, participate in any unauthorized transfer or sale of, create derivative works of, or in any way exploit the content or software comprising this Access, or Information Assets made available through this Access.
7. **DATA PRIVACY.** In addition to Contractor’s obligations under Exhibit A, Part 3, “Special Provisions”, Section 2 regarding Confidentiality of Information:
- 7.1. **Generally.** Recipient shall hold all Client Records, and other information as to personal facts and circumstances obtained by Recipient on ODHS clients, as confidential, using the highest standard of care applicable to the Client Records, and shall not divulge any Client Records without the written consent of the client, the client’s attorney, the responsible parent of a minor child, or the minor child’s guardian except as required by other terms of this Privacy and Security Agreement or applicable law.
- 7.2. **Limited Purposes.** Recipient shall limit the use or disclosure of Data concerning clients to persons directly connected with the administration of this Privacy and Security Agreement or the Agreement. Confidentiality policies apply to all requests from outside sources.
- 7.3. **Privacy Protections.** Data may include information, such as Client Records, subject to specified confidentiality protections under state or federal law. Recipient shall comply with laws, regulations, and policies applicable to the information described in Exhibit F-1, including as specified in this Agreement.
- 7.4. **Training.** Recipient’s employees, subcontractors, and agents who will Access Data have received training on the privacy and security obligations relating to the Data, including Client Records. Recipient shall provide periodic privacy and security training to its employees, subcontractors, and agents.
8. **SECURITY REQUIREMENTS.**
- 8.1. **Compliance with Laws, Regulations, and Policies.** Recipient and its employees, contractors, and agents shall comply with all applicable state and federal laws and regulations, and State of Oregon policies governing use and disclosure of Data (including Client Records) and Access to Information Assets, including as those laws, regulations, and policies may be updated from time to time. Applicable laws, regulations, and policies include but are not limited to:

- 8.1.1. ODHS and OHA Information Security and Privacy Policies:  
<https://www.oregon.gov/oha/FOD/OIS-ISPO/Pages/Policies.aspx>
- 8.1.2. ODHS and OHA Privacy and Confidentiality administrative rules, OAR Chapter 407, Division 14, and OAR Chapter 943, Division 14.  
  
The Health Insurance Portability and Accountability Act (HIPAA), including as amended by the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (“ARRA”), and its implementing Privacy Rule and Security Rule, 45 CFR Parts 160 and 164. Recipient shall comply with HIPAA Compliance included in this Agreement in Exhibit A, Part 3, Section 1 in connection with Recipient’s Access.
- 8.1.3. The Oregon Consumer Identity Theft Protection Act, ORS 646A.600 through 646A.628, to the extent applicable.
- 8.1.4. Oregon’s Statewide Information Security Standards:  
<https://www.oregon.gov/das/OSCIO/Documents/2019StatewideInformationAndCyberSecurityStandardsV1.0.pdf>

- 8.2. **Responsible for Compliance.** Recipient is responsible for the compliance of its employees, agents, and subcontractors with this Agreement and with any third-party licenses to which Access is subject.
- 8.3. **Privacy and Security Measures.** Recipient represents and warrants it has established and will maintain privacy and security measures that meet or exceed the standards set in laws, rules, and regulations applicable to the safeguarding, security and privacy of Data, including Client Records, all Information Assets, regardless of the media, and all Network and Information Systems. Recipient shall monitor, periodically assess, and update its security controls and risk to ensure continued effectiveness of those controls.
- 8.4. **Security Risk Management Plan.** Recipient shall ensure the level of security and privacy protection required in accordance with this Privacy and Security Agreement is documented in a security risk management plan. Recipient shall make its security risk management plan available to ODHS for review upon request.
- 8.5. **Audit Rights and Access.** Recipient shall maintain records in such a manner as to clearly document its compliance with and performance under this Privacy and Security Agreement, and provide ODHS, the Oregon Secretary of State, the federal government, and their duly authorized representatives access to Recipient’s officers, agents, contractors, subcontractors, employees, facilities and records for ODHS to:
  - 8.5.1. Determine Recipient’s compliance with this Privacy and Security Agreement,
  - 8.5.2. Validate Recipient’s written security risk management plan, or
  - 8.5.3. Gather or verify any additional information ODHS may require to meet any state or federal laws, rules, or orders regarding Information Assets.

8.5.4. Access to facilities, systems, and records under this section will be granted following reasonable notice to Recipient. Records include paper or electronic form, system security logs, and related system components and tools (including hardware and software), required to perform examinations and audits, and to make excerpts and transcripts, including for data forensics.

## 9. ACCESS TO ODHS SYSTEMS.

- 9.1. **ODHS Review of User Requests.** If required for Access, ODHS will review requests, including forms such as the IAR, and will:
- 9.1.1. Notify Recipient of the approval or denial of its request for each User for whom Access has been requested;
  - 9.1.2. Provide any unique log-on identifier required for authorized Access;
  - 9.1.3. Provide updates to approved inquiry processes and instructions to Recipient.
- 9.2. **Recipient's Responsibilities for User Accounts.** Recipient shall facilitate completion of any forms (such as the IAR) for each person for whom Access is requested.
- 9.2.1. Recipient is responsible for all activities that occur through its Access, including for any acts related to a lost or stolen User ID or password.
  - 9.2.2. Recipient is responsible for ensuring information provided by its Users is accurate, complete, and up to date.
  - 9.2.3. Recipient shall immediately notify ODHS when a User, group of Users, or Recipient, no longer requires Access whether due to changes in duties or due to changes in Recipient's programs related to this Agreement.
- 9.3. **Security and Disposal.** Recipient shall maintain security of equipment, and ensure the proper handling, storage and disposal of all Information Assets accessed, obtained, or reproduced by Recipient and its Users to prevent inadvertent destruction or loss. Recipient shall ensure proper disposal of equipment and Information Assets when authorized use ends, consistent with Recipient's record retention obligations and obligations regarding Information Assets under this Agreement.
- 9.4. **Prevention of Unauthorized Access.** Recipient shall prevent any Access to State of Oregon Network and Information Systems by its Users that is not authorized in accordance with this Agreement and applicable law, and shall implement and maintain safeguards to prevent unauthorized access.
- 9.5. **Access from Outside the US and its Territories.** Recipient Access to the state network from outside the US and its territories is prohibited unless approved by the ODHS|OHA Chief Information Risk Officer (CIRO). If approved, the Recipient shall provide ODHS|OHA with the IP addresses, or IP address range, to be used to Access the network. Any changes to the provided IP addresses, or IP range, shall be immediately communicated to ODHS|OHA or Access could be affected.

- 9.5.1. Recipient shall not allow use of any Information Asset in any country or territory in any manner prohibited by governing applicable law, rule, or policy.
- 9.6. **Authorized Access and Use Only.** No User may Access or use Data for any purpose other than those specifically authorized through this Agreement.
- 9.6.1. Users shall not use Access to obtain or attempt to obtain any Data or Information Assets not authorized or intentionally made available.
- 9.6.2. The use and disclosure of any Information Asset is strictly limited to the minimum information necessary to the exchange of Data between the parties described in Exhibit F-1.
- 9.6.3. Except as otherwise specified or approved by ODHS, neither Recipient nor its Users may modify, alter, delete, or destroy any Information Asset.
- 9.7. **Revocation or Termination of Access.** Breach, or wrongful use or disclosure of Information Assets by Recipient or its Users, may cause the immediate revocation of the Access granted through this Agreement, in the sole discretion of ODHS, or ODHS may specify a reasonable opportunity for Recipient to cure the unauthorized use or disclosure and end the violation, and terminate the Access if Recipient does not do so within the time specified by ODHS. Legal actions also may be taken for violations of applicable regulations and laws.
- 9.8. **No Unauthorized Distribution.** Recipient shall not sell, make available, or provide Information Assets in any form to any other persons or organizations, and shall not use the Information Assets for any purposes other than as allowed under this Agreement and applicable law.
- 9.9. **No Impairment.** Recipient shall not use this Access in any manner which could damage, disable, overburden, or impair Network and Information Systems or interfere with any other entity's use or benefit of Network and Information Systems.
- 9.10. **Prohibition on Data Mining.** Recipient shall not capture, maintain, scan, index, share or use Data stored or transmitted by virtue of this interconnection, or otherwise use any data-mining technology, for any non-authorized activity. For purposes of this requirement, "non-authorized activity" means the data mining or processing of data, stored or transmitted through the Network and Information Systems, for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security analysis that is not explicitly authorized in this Agreement.
- 9.11. **Incidents and Breaches.** Recipient shall comply, and shall cause its subcontractors to comply, with any requirements for identifying and addressing an Incident or Breach. This requirement applies regardless of whether the Incident or Breach was accidental or otherwise.

## 10. SUSPENSION OR TERMINATION.

- 10.1. This Privacy and Security Agreement may be terminated at any time by written agreement of the parties.
- 10.2. This Privacy and Security Agreement may be terminated by either party upon thirty (30) calendar days' written notice to the other party.
- 10.3. Access and this Privacy and Security Agreement may be terminated immediately upon written notice from Recipient if Access is no longer needed by Recipient.
- 10.4. ODHS may immediately revoke the Access granted Recipient for Recipient's failure to comply with the requirements of this Privacy and Security Agreement. In such event, ODHS will provide subsequent written notice to Recipient's point of contact. ODHS may, to the extent it determines it is reasonable and able to do so, provide advance notice to Recipient to cure any deficiency or breach of this Privacy and Security Agreement.
- 10.5. Either party may terminate this Privacy and Security Agreement, and ODHS may modify Access, upon written notice if there are changes to or revised interpretations of federal or state laws, rules, or regulations, or if either party has changes in policies that require such action.

**11. RETURN OF INFORMATION ASSETS.** Upon expiration or termination of the Agreement or this Privacy and Security Agreement for any reason whatsoever, Recipient shall immediately deliver to ODHS all of ODHS' Information Assets, including Data and Client Records, that are in the possession or under the control of Recipient in whatever stage and form of recordation such property is expressed or embodied at that time.

- 11.1. Except as necessary to meet obligations under Exhibit B, Section 14, Records Maintenance; Access, Recipient shall not retain any copies of Information Assets. Recipient shall notify ODHS of any conditions that make returning all ODHS Information Assets not feasible. Upon ODHS' written acknowledgement that returning all Information Assets is not feasible, Recipient shall purge or destroy retained Data in all its forms in accordance with the most current version of NIST SP 800-88 (or other agreed-upon standard) and on request provide ODHS with written certification of sanitization.
- 11.2. Recipient shall maintain protections required by law or the Agreement for any retained State of Oregon Information Asset for so long as Recipient (including through any subcontractor) retains it.

**12. INDEMNIFICATION AND INSURANCE.** Indemnification and insurance coverages provided by Recipient under the Agreement apply to this Privacy and Security Agreement.

**13. COSTS.** Each party will bear its own costs related to the acquisition of all equipment, software, data lines or connections necessary for Access, unless otherwise agreed to by written agreement between the parties. Each party is responsible for securing compatible hardware, equipment, and software, and network connections. Each party is responsible for complying with the licenses for third party products, including software and services that allow Access.

- 14. SURVIVAL.** Access and rights to use Information Assets ceases upon termination of this Privacy and Security Agreement. Rights and obligations which expressly or by their nature survive termination do so survive, and include this section, provisions regarding warranties and liabilities, indemnification, and confidentiality and non-disclosure.
- 15. INTERPRETATION.** Any ambiguity in this Privacy and Security Agreement will be resolved to permit ODHS to comply with applicable privacy and security laws and State of Oregon and ODHS policies interpreting those laws.
- 16. SUBCONTRACTORS.** Recipient shall ensure all subcontractors providing services related to this Privacy and Security Agreement are held to the same requirements as Recipient.

**EXHIBIT F-1  
THIRD PARTY INFORMATION SYSTEM ACCESS REQUEST**

EXHIBIT F-1 (6 PAGES) STARTS ON NEXT PAGE  
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## Third Party Information System Access Request

An DHS or OHA program completes this form to request access for a **third-party entity\*** (*organization or individual*) to data within an DHS or OHA information system or network.

*\*Please note that each entity only needs one form.*

 Hover over **blue** text for more information.

Request type ( <i>required</i> ): New request (ISPO will add agreement number)	Agreement number: 171482
---	-----------------------------

### Section 1. Third party information

This section defines the third party needing access to DHS/OHA network and information system(s). A third party is any individual or entity that is not part of the DHS/OHA workforce. Workforce means employees, volunteers, trainees and other individuals whose DHS or OHA work is under that agency's direct control. This applies to paid and unpaid workforce members.

#### Third-party agreement administrator contact information

*This individual signs the contracts for the third party. (This is NOT a DHS/OHA employee.)*

Organization/entity name: Clackamas County Social Services (CCSS)	
Contact name ( <i>first, last</i> ):	Teresa Christopherson
Position/title:	Administrative Services Manager
Work street address:	2051 Kaen Road, 1st Floor
City, State, ZIP:	Oregon City, OR 97045
Phone:	503-650-5718
Email:	<a href="mailto:teresachr@clackamas.us">teresachr@clackamas.us</a>
Website address ( <i>optional</i> ):	

#### Additional contact for third party

*This individual will be the contact for setting up or terminating users for the third party. (This is **not** a DHS/OHA employee.)*

Same contact information as above.

## Section 2. Governing contract details

A DHS/OHA employee fills out this section. If a [governing contract](#) applies, please complete all applicable fields, below.

Does a governing contract establish a need for access?  Yes  No

### Background checks

Please ensure all applicable required background checks are completed. DHS and OHA systems containing or accessing regulated data may require additional background check requirements beyond the pre-employment background checks. Regulated data sets requiring additional background checks include but are not limited to:

- Criminal Justice Information (CJI) in the Criminal Justice Information Services (CJIS) policy, 5.12.1 Personnel Security Policy and Procedures
- Federal tax information (FTI) as documented in Internal Revenue Service (IRS) Publication 1075, 5.1.1 Background Investigation Minimum Requirements.

Direct questions related to the background check process to [BCU.Info@state.or.us](mailto:BCU.Info@state.or.us) or 503-378-5470 or 1-888-272-5545.

## Section 3. Access description

### Reason for access

Describe in detail the [business need](#) for access:

AAAs provide field support to Oregonians who need Aging and Disability Resource Connection (ADRC), Older Americans Act (OAA), and Oregon Project Independence (OPI) services.

Requested access start date: \_\_\_\_\_

### Method of access

Check all methods the third party will use to access DHS/OHA information systems.

- DHS/OHA on-site Will only use DHS/OHA supplied PC, laptop or workstation: Yes  No
- Remote access via [VPN](#) Will only use DHS/OHA supplied PC, laptop or workstation: Yes  No
- Remote access via [Citrix](#)
- Access to folder on [Secure File Transfer Protocol \(SFTP\) server](#)
- Other (*explain below*): Will only use DHS/OHA supplied PC, laptop or workstation:  Yes  No

### Access and information flow will occur from:

Information is exchanged in both directions between DHS/OHA and third party

### Scope of access

List all system names the third party needs to access. (*This form authorizes access for the third-party organization as a whole. A partner number [P#] and a network login are needed to access the following information systems. The system-specific [individual user access request forms](#) must be used to request access for individual third-party employees using the system.*)

- Email:** DHS/OHA email account authorized. This authorizes the third party to get DHS/OHA email accounts after receiving a completed individual user access request form for each individual.

- Network:** Network login authorized. This authorizes the third party to get DHS/OHA network login IDs after receiving a completed individual user access request form for each individual.

## System 1

**Name of system: DHR Mainframe**

Type of access requested: Read/write (please describe):

Description of access:

Access is required to provide Older American Act & Medicaid Services.

Expiration date of access:

### Information type

Will information being shared or accessed be identifiable (*i.e., names, DOB, address, etc.*)?

Yes  No

**If yes**, what protected information will be shared or accessed? (*Check all that apply.*)

- Protected health information (PHI)  Personally identifiable information (PII)  
 Financial information  Federal tax information (FTI)  
 Criminal justice information (CJI)  Payment card information (PCI)  
 Social Security Administration (SSA data)  
 Other (*list below*):

### Information owner review (*internal use only*)

Name of reviewer: Marci Lail

Review date: 08/02/2021

### Access determination:

Role or group assigned (*if applicable*):

Access is: Granted as requested

Reason for determination:

## System 2

**Name of system: OR Access**

Type of access requested: Read/write (please describe):

Description of access:

Access is required to provide Oregon Project Independence (OPI) services and accessed/utilized for Medicaid services work.

Expiration date of access:

### Information type

Will information being shared or accessed be identifiable (*i.e., names, DOB, address, etc.*)?

Yes  No

**If yes, what protected information will be shared or accessed? (Check all that apply.)**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Protected health information (PHI) | <input checked="" type="checkbox"/> Personally identifiable information (PII) |
| <input type="checkbox"/> Financial information                         | <input type="checkbox"/> Federal tax information (FTI)                        |
| <input type="checkbox"/> Criminal justice information (CJI)            | <input type="checkbox"/> Payment card information (PCI)                       |
| <input type="checkbox"/> Social Security Administration (SSA data)     |   |
| <input type="checkbox"/> Other (list below):                           |   |

**Information owner review (internal use only)**

Name of reviewer: Marci Lail

Review date: 08/02/2021

**Access determination:**

Role or group assigned (if applicable):

Access is: Granted as requested

Reason for determination:

**System 3**

**Name of system: GetCare**

Type of access requested: Read/write (please describe):

Description of access:

Access is required to provide ADRC services and Older Americans Act Services.

Expiration date of access:

**Information type**

Will information being shared or accessed be identifiable (i.e., names, DOB, address, etc.)?

- Yes    No

**If yes, what protected information will be shared or accessed? (Check all that apply.)**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Protected health information (PHI) | <input checked="" type="checkbox"/> Personally identifiable information (PII) |
| <input type="checkbox"/> Financial information                         | <input type="checkbox"/> Federal tax information (FTI)                        |
| <input type="checkbox"/> Criminal justice information (CJI)            | <input type="checkbox"/> Payment card information (PCI)                       |
| <input type="checkbox"/> Social Security Administration (SSA data)     |   |
| <input type="checkbox"/> Other (list below):                           |   |

**Information owner review (internal use only)**

Name of reviewer: Ann McQueen

Review date: 06/08/2021

**Access determination:**

Role or group assigned (if applicable):

Access is: Choose one

Reason for determination:

**System 4**

**Name of system: Random Moment Sampling**

Type of access requested: Read/write (please describe):

Description of access: Access is required for time-tracking for Oregon Medicaid Administrative Claiming.	
Expiration date of access:	
<b>Information type</b> Will information being shared or accessed be identifiable ( <i>i.e., names, DOB, address, etc.</i> )? <input checked="" type="radio"/> Yes <input type="radio"/> No	
If <b>yes</b> , what protected information will be shared or accessed? ( <i>Check all that apply.</i> )	
<input checked="" type="checkbox"/> Protected health information (PHI)	<input checked="" type="checkbox"/> Personally identifiable information (PII)
<input type="checkbox"/> Financial information	<input type="checkbox"/> Federal tax information (FTI)
<input type="checkbox"/> Criminal justice information (CJI)	<input type="checkbox"/> Payment card information (PCI)
<input type="checkbox"/> Social Security Administration (SSA data)	
<input type="checkbox"/> Other ( <i>list below</i> ):	
<b>Information owner review (internal use only)</b>	
Name of reviewer: Ann McQueen	Review date: 06/08/2021
<b>Access determination:</b> Role or group assigned ( <i>if applicable</i> ): Access is: Choose one Reason for determination:	

Check all methods the third party will use to access DHS/OHA information systems.

## Section 4. Program sponsor

The **program sponsor** is the DHS or OHA manager who sponsors the requested access. That person must monitor and ensure the third party complies with the terms and conditions of the access agreement. (*Note that the program sponsor is usually the contract administrator of the governing contract authorizing the access.*)

<b>Verification of need to know:</b>	
<input checked="" type="checkbox"/> As program sponsor, I certify that sections 1 through 3 of this form note the minimum necessary access. Date: <u>06/09/2021</u>	
Name ( <i>first, last</i> ):	Ann McQueen
Position/title:	PEME
Office:	APD Design
Program:	APD
District name:	Central
Work street address:	500 Summer St NE
City, State, ZIP:	Salem, OR 97301
Phone ( <i>include ext.</i> ):	503-930-7293
Email:	ANN.E.MCQUEEN@dhsaha.state.or.us

## Section 5. Program requestor

The [program requestor](#) is the DHS or OHA staff person who works with the third party on a day-to-day basis. That person requests the access agreement for the third party. The requestor can be the same person as the program sponsor or contract administrator. However, a program can list separate requestors/contract administrators. This will ensure all relevant parties receive contract communication and expiration notices.

**Check this box and skip this section if the program requestor is also the program sponsor.**

Name ( <i>first, last</i> ):	Rodney Schroeder
Position/title:	OPA3
Office:	APD Design
Program:	APD
District name:	Central
Work street address:	500 Summer St NE
City, State, ZIP:	Salem, OR 97301
Phone ( <i>include ext.</i> ):	541-305-3489
Email:	RODNEY.B.SCHROEDER@dhsoha.state.or.us

## Submission

Click the submit button below to submit electronically, or email this completed form to the Information Exchange (InfoEx) Program within the Information Security and Privacy Office at [DHSOHA.InfoEx@dhsoha.state.or.us](mailto:DHSOHA.InfoEx@dhsoha.state.or.us). You can also email this address if you need more help.

Policy reference: <https://apps.state.or.us/Forms/Served/de090-003.pdf>

**Submit by email**

### DHS/OHA Information Security and Privacy Office use only

Date received: 08.02.21	Date completed: 08.02.21
Date approved by all information owners: 08.02.21	Date executed: N/A
Notes: 785 on file. Part of the 118 process. PSA provided.	
Completed by: Shannon Corr	

# Financial Assistance Application Lifecycle Form

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

## \*\* CONCEPTION \*\*

Note: The processes outlined in this form are not applicable to disaster recovery grants.

### Section I: Funding Opportunity Information - To be completed by Requester

Lead Department & Fund:

H3s/SSD - 240

Application for:  Subrecipient Assistance  Direct Assistance

Grant Renewal?  Yes  No

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

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

Name of Funding Opportunity:

State IGGA - Older Americans Act & Oregon Project Independence Funding

Funding Source: Federal  State  Local

Requestor Information (Name of staff person initiating form):

Stefanie Reid-Danielson

Requestor Contact Information:

503-655-8330 or 503-320-8884 stefanierei@clackamas.us

Department Fiscal Representative:

same

Program Name or Number (please specify):

Various -

Brief Description of Project:

Funding to support Social Service Division Area Agency on Aging's designated services of nutrition services, outreach, assessment, information and assistance, case management, reassurance, transportation, health promotion and legal consultation for Clackamas County residents age 60 and older funded with Federal Older Americans Act funds and State Oregon Project Independence funds.

Name of Funding Agency:

Oregon Department of Human Services/Adults & People w/Disabilities/Community Solutions & Supports Unit

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

<https://www.oregon.gov/dhs/SENIORS-DISABILITIES/SUA/Pages/AAA-Financial.aspx>

OR

Application Packet Attached:  Yes  No

Completed By:

S. Reid-Danielson

Date

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

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

Competitive Application

Non-Competing Application

Other

CFDA(s), if applicable:

93.044, 93.045, 93.043, 93.052, 93.053

Funding Agency Award Notification Date:

N/A

Announcement Date:

N/A

Announcement/Opportunity #:

N/A

Grant Category/Title:

AoA - Older Americans Act

Max Award Value:

7,500,000

Allows Indirect/Rate:

Yes @ 10%

Match Requirement:

25% for Admin & III-E (93.052); 10% for all other

Application Deadline:

N/A

Other Deadlines:

N/A

Award Start Date:

07/01/2021

Other Deadline Description:

N/A

Award End Date:

06/30/2023

Completed By:

S. Reid-Danielson

Program Income Requirement:

N/A

Pre-Application Meeting Schedule:

N/A

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

**Mission/Purpose:**

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

These services link residents with resources to meet their individual needs. This helps them to remain independent and active in the community.

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

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

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

**Organizational Capacity:**

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

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

3. If this is a pilot project, what is the plan for sunseting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

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



**Collaboration**

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

**Reporting Requirements**

1. What are the program reporting requirements for this grant/funding opportunity?

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

3. What are the fiscal reporting requirements for this funding?

**Fiscal**

1. Will we realize more benefit than this financial assistance will cost to administer?

2. Are other revenue sources required? Have they already been secured?

3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?

4. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

Program Approval:

**Kati Tilton**

**6/28/21**

**Kati Tilton**

Digitally signed by Kati Tilton  
Date: 2021.06.28 09:34:49 -07'00'

Name (Typed/Printed)

Date

Signature

**\*\* NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR \*\***

**\*\*ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY. COUNTY FINANCE OR ADMIN WILL SIGN.\*\***

**Section IV: Approvals**

<b>DIVISION DIRECTOR (or designee, if applicable)</b>		
Teresa Christopherson	6/28/21	Teresa D. Christopherson
Name (Typed/Printed)	Date	Signature

Digitally signed by Teresa D. Christopherson  
Date: 2021.06.28 09:55:13 -07'00'

<b>DEPARTMENT DIRECTOR (or designee, if applicable)</b>		
Mary Rumbaugh for Rodney A Cook	8-11-2021	Mary Rumbaugh
Name (Typed/Printed)	Date	Signature

Digitally signed by Mary Rumbaugh  
Date: 2021.08.11 09:06:20 -07'00'

<b>FINANCE ADMINISTRATION</b>		
Elizabeth Comfort	8.11.2021	Elizabeth Comfort
Name (Typed/Printed)	Date	Signature

Digitally signed by Elizabeth Comfort  
Date: 2021.08.11 11:23:04 -07'00'

<b>EOC COMMAND APPROVAL (DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)</b>		
Name (Typed/Printed)	Date	Signature

**Section V: Board of County Commissioners/County Administration**

*(Required for all grant applications. If your grant is awarded, all grant **awards** must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)*

**For applications less than \$150,000:**

<b>COUNTY ADMINISTRATOR</b>	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
Name (Typed/Printed)	Date	Signature

**For applications greater than \$150,000 or which otherwise require BCC approval:**

BCC Agenda item #:

Date:

**OR**

Policy Session Date:

---

County Administration Attestation

**County Administration: re-route to department contact when fully approved.  
Department: keep original with your grant file.**

November 4, 2021

Board of Commissioners  
Clackamas County

Members of the Board:

Approval of a Contract with SRS LLC  
for On-Call Hotel Rooms for Temporary Housing Participants. Maximum Contact Value of  
\$582,000 funded with Metro Supported Housing and Service Funds.  
No County General Funds are involved.

<b>Purpose/Outcomes</b>	The purpose of the motel shelter program is to provide safety and temporary housing to this vulnerable population while partner agencies assist them with obtaining permanent housing.
<b>Dollar Amount and Fiscal Impact</b>	Maximum contract value is \$582,400.00.
<b>Funding Source</b>	Metro Supportive Housing and Services Fund
<b>Duration</b>	Upon signature to March 31, 2022
<b>Previous Board Action</b>	Agreement # 3974 approved 1/25/21
<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 providing shelter to houseless medically fragile and vulnerable participants as they transition into permanent housing
<b>Counsel Review</b>	Reviewed by Counsel 10/4/2021 , Counsel Initials AN
<b>Procurement Review</b>	1. Was this time processed through Procurement? Yes 2. In no, provide brief explanation: N/A
<b>Contact Person</b>	Teresa Christopherson, Administrative Services Manager– 503-650-5718
<b>Agreement No.</b>	County #4687/ H3S#10408

**BACKGROUND:**

Clackamas County Social Services Division seeks approval of a contract with SRS LLC for on-call hotel rooms for temporary housing participants. This program provides safety and temporary housing to this vulnerable population while partner agencies assist them with obtaining permanent housing.

Between December, 2020, and March, 2021, the County, through its Social Services Division, developed a Non-Congregate Hotel Shelter program for houseless persons who were at high

risk of a COVID19 infection due to age or health conditions. There are approximately 95 households still housed in hotels. To avoid transitioning people back into an unhoused situation while we are seeking permanent housing options, the County will contract with motel/hotel owners'/operators' to provide shelter during this time. The program is expected to end by March 31, 2022.

The contract will be paid using Metro Support Housing and Services Funds. No county general fund is involved.

**PROCUREMENT PROCESS:**

This project was advertised in accordance with ORS and LCRB Rules on August 3, 2021, through RFQ 2021-66 the County requested for multiple contracts. The RFQ is continuously open to allow for multiple vendors to quote and for the County to award multiple contracts. The County received the quote from SRS LLC for the Econolodge on August 26, 2021. It was determined to be in the best interest of the county to move forward with the quote with SRS LLC.

**RECOMMENDATION:**

Staff recommends approval of this Contract.

Respectfully submitted,

*Mary Rumbaugh*

Rodney A. Cook, Director  
Health, Housing and Human Services



MOTEL/HOTEL SERVICES CONTRACT
Cobblestone Contract # 4687

This Motel/Hotel Services Contract (this "Contract") is entered into between SRS LLC, A Limited Liability Company of Nevada ("Contractor"), and Clackamas County, a political subdivisions of the State of Oregon ("County") on behalf of the Department Health, Housing and Human Services (H3S) for the purposes of providing hotel rooms for shelter for homeless families and individuals at the property described as Budget Inn Gladstone located at 19240 McLoughlin Blvd, Gladstone, Oregon 97027 ("Premises").

This Contract will also be used to secure motel/hotel rooms for other populations as the need arises. For example, in the event of a natural disaster or extreme weather event where housed and houseless county residents need temporary shelter.

I. TERM

This Contract shall become effective upon signature of both parties and shall remain in effect until March 31, 2022. This Contract and any amendments to this Contract will not be effective until approved in writing by an authorized representative of the Board of County Commissioners of Clackamas County. This Contract supersedes and cancels any prior contracts between the parties hereto for similar services.

II. SCOPE OF WORK

Contractor shall provide up to twenty three (23) hotel rooms on an on-call or as-needed basis, as further detailed in the Scope of Work attached and hereby incorporated by reference as Exhibit "B." This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Additional Federal Terms and Conditions Exhibit "A," and Scope of Work Exhibit "B." Work shall be performed in accordance with a schedule approved by the County.

III. COMPENSATION

1. PAYMENT. County will provide up to \$572,400.00 in compensation for Contractor to provide hotel rooms, on an on-call or as-needed basis, and at the nightly rates set forth in Exhibit B, during the term of the Contract. Because this Contract is on an on-call or as-needed basis, and the exact number of rooms required by County, if any, is unknown, nothing herein shall be construed as a promise to pay Contractor the entire \$572,400.00 authorized under this Contract. Per Article IV, Section 10, damages to the Premises are limited up to two hundred fifty dollars (\$250.00) per guest stay or accumulative stays and shall not exceed a total of ten thousand dollars (\$10,000.00). The total compensation authorized under this Contract, including all possible damages under Article IV, Section 10, shall not exceed Five Hundred Eighty-Two Thousand Four Hundred Dollars (\$582,400.00).

2. TRAVEL EXPENSE REIMBURSEMENT. Authorized: [ ] Yes [X] No
If travel expense reimbursement is authorized in this Contract, such expenses shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference, in effect at the time of the expense is incurred.

3. INVOICES. Invoices submitted for payment in connection with this Contract shall be properly documented and shall indicate pertinent County contract and/or purchase order numbers. All charges

shall be billed monthly (unless a different payment period is outlined in Exhibit B) and will be paid net thirty (30) days from receipt of invoice and shall be subject to Oregon Revised Statute (“ORS”) 293.462. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Invoices shall be submitted to Erika Silver via email to [teresachr@clackamas.us](mailto:teresachr@clackamas.us) or mail at Community Development Division, 2051 Kaen Road, #245, Oregon City Oregon, 97045.

**4. CONTRACTOR AND COUNTY CONTACTS.**

Contractor Contract Administrator: Bob Patel Phone: 503-789-5194 Email: <a href="mailto:omrslc50@gmail.com">omrslc50@gmail.com</a>	County Contract Administrator: Teresa Christopherson Phone: 503-650-5718 Email: <a href="mailto:teresachr@clackamas.us">teresachr@clackamas.us</a>
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**IV. CONTRACT PROVISIONS**

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by the applicable State or Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.
5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

- 7. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and their officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon 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.
- 8. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.
- 9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. The insurance requirement outlined below do not in any way limit the amount of scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [procurement@clackamas.us](mailto:procurement@clackamas.us).

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

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

**10. LIMITATION OF LIABILITIES.**

- a. Neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would

conflict with law are deemed inoperative to that extent.

- b. **Damage to Premises:** Damage to the Premises arising from the acts of individuals staying in the rooms ("Guest" or "Guests") is limited to \$250 per Guest, per duration of stay or accumulation of stays, for a maximum not to exceed amount under this Contract of ten thousand dollars (\$10,000). The County shall not be liable to Contractor for any damages caused by Guests in excess of the ten thousand dollars (\$10,000) provided herein. The reimbursement provided herein is Contractor's sole remedy against County for the acts or omissions of Guests.
- c. **No Agency.** The parties expressly acknowledge and agree that the Guests are not agents, employees, contractors, or subcontractors of County, and that County has no control over the actions of Guests occupying the Premises.
- d. **Prior Inspection.** Prior to permitting Guests to occupy the Premises, a representative of both Contractor and County will perform a walkthrough of the Premises, including each room that may be occupied by a Guest, for purposes of documenting any preexisting real or personal property damage.

**11. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article II, Section 4. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us). Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.

Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or County at the address or number set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any such communication or notice delivered by facsimile shall be deemed to be given when receipt of transmission is generated by the transmitting machine. To be effective against County, such facsimile transmission must be confirmed by telephone notice to County's supervising representative. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

**12. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (1) Contractor has the power and authority to enter into and perform this Contract; (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the customary standards in the industry or business most closely involved in providing similar goods or services; and (4) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**13. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in the following Sections of Article IV: 1, 6, 7, 10, 12, 13, 14, 16, 19, 20, 21, 25, 28, and 30, and all other terms and conditions which by their context are intended to survive termination of this Contract.



- 14. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 15. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this section and Sections 1, 7, 8, 12, 15, and 20 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 16. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 17. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- 18. TERMINATION.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the County (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; or (B) if contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.
- Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to County all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.
- 19. REMEDIES.** If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the rooms rented as of the date written notice of termination is received by Contractor, at the rates set forth in the Contract, less any amounts previously paid and any right of setoff the County may have.
- 20. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.
- 21. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to

give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

**22. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence under this Contract.

**23. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

**24. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

**25. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

**26. COMPLIANCE.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, Contractor shall:

- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
- c. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.
- d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
- f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.

**27. INSPECTIONS.** Goods and services furnished under this Contract will be subject to inspection and test by the County at times and places determined by the County. If the County finds goods and services furnished to be incomplete or not in compliance with the Contract, the County, at its sole discretion, may either reject the goods and services, require Contractor to correct any defects without charge, or negotiate with Contractor to sell the goods and services to the County at a reduced price, whichever the County deems equitable under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by the County, the County may reject the goods and services and cancel the Contract in whole or in part. Nothing in this paragraph shall in any way affect or limit the County's rights as a Buyer, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.

**28. FURTHER ASSURANCES.** Contractor agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to,

executing all additional documentation necessary for County to comply with applicable State or Federal funding requirements.

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

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

SRS LLC, A Limited Liability Company of  
Nevada

Clackamas County

B. Patel      10/7/21  
Authorized Signature      Date

\_\_\_\_\_  
Chair      Date

BHU PENBRA PATEL - member  
Name / Title (Printed)

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

Approved as to Form:

1761572-96  
Oregon Business Registry #

[Signature]      10/13/2021  
County Counsel      Date

FLLC/Nevada  
Entity Type / State of Formation

**EXHIBIT A**  
**ADDITIONAL FEDERAL TERMS AND CONDITIONS**

As used herein, "Contractor" means **SRS LLC, A Limited Liability Company of Nevada**, and "County" means Clackamas County, a political subdivision of the State of Oregon.

1. The County intends that all or a portion of the consideration paid to Contractor will be eligible for reimbursement by one or more federal agencies including, but not limited to, the Federal Emergency Management Agency ("FEMA"). This Contract is subject to the additional terms and conditions required by federal law for a federal award. All terms and conditions required under applicable federal law for a federal award including, but not limited to, 2 C.F.R. § 200.326 and 2 C.F.R. § Pt. 200, App. II, are hereby incorporated by this reference herein.
2. Termination. This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor; or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County.
3. By execution of this Contract, Contractor hereby certifies that it and all subcontractors will comply with (i) all Federal statutes relating nondiscrimination, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis race, color or national origin; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 et seq.), which prohibits discrimination on the basis of sex; the Age Discrimination Act of 1975, as amended (29 U.S.C. §§6101 et seq.), which prohibits discrimination on the basis of age; the Rehabilitation Act of 1973, as amended (29 U.S.C. §§793 et seq.), which prohibits discrimination against requires affirmative action for qualified individuals with disabilities; the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. §§4541 et seq.), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; Title VII of the Civil Rights Act of 1969 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; any other discrimination provisions in the specific statute(s) under which for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply; (ii) will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352 et. seq.), and shall file the required certification if the award is \$100,000 or more; and (iii) will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
4. If this Contract involves a federal award that meets the definition of a "funding agreement" under 37 CFR § 401.2 (a), and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
5. If this Agreement is in excess of \$150,000, Contractor certifies that it and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42

U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include these requirements in all contracts with subcontractors receiving more than \$150,000.

6. If this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor and all subcontractors will comply with all applicable standards, orders or regulations issued pursuant to the Contract Work Hours and Safety Standards Act 40 USC §§3701 et seq. as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. Contractor shall include and require all providers to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.
7. Contractor shall comply with 2 CFR 180.220 and 925. These regulations restrict sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs or activities. Contractor is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Contractor may access the Excluded Parties List System at <https://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than E.O. 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award. Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. 180.995) or its affiliates (defined at 2 C.F.R. 180.905) are excluded (defined at 2 C.F.R. 180.940) or disqualified (defined at 2 C.F.R. 180.935). The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction that Contractor enters into. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, then in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
8. Record Retention. Contractor will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337. Contractor agrees to provide to the County, to the FEMA Administrator, to the Comptroller General of the United States, or to any of their authorized representatives, access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Contractor agrees to provide the FEMA Administrator or the Administrator's authorized representative's access to construction or other work sites pertaining to the Work being completed under the Contract. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or

internal reviews by the FEMA Administrator or the Comptroller General of the United States.

9. **DHS Seal, Logo, and Flags:** Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
10. **Compliance with Federal Law, Regulations, and Executive Orders:** This is an acknowledgement that FEMA financial assistance may be used to fund this Contract only. Contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.
11. **No Obligation by Federal Government:** The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.
12. **Program Fraud and False or Fraudulent Statements or Related Acts:** Contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.
13. Contractor will comply with all requirements of 2 CFR 200.321.
14. **Procurement of Recovered Materials (Reference 2 CFR 200.322):** Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
15. **Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended).** Contractors who apply or bid for an award of \$100,000 or more shall file the required certification, set forth below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Contractor hereby makes the following certification:

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

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

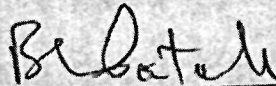
- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection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

Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

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



\_\_\_\_\_  
Signature of Contractor's Authorized Official

**BHUPENDRA PATEL - MEMBER**  
\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

**10/7/21**  
\_\_\_\_\_  
Date

## **EXHIBIT B SCOPE OF WORK**

**Hotel Name and Address: Budget Inn Gladstone located at 19240 SE McLoughlin Blvd. Gladstone, Oregon 97027.**

**Rental Basis: Contractor shall provide up to twenty three (23) rooms on an as-needed basis.**

**Rental Rates: \$100 per day/room.**

**Service Provider: The County may use a third party service provider (“Service Provider”) to arrange for coordination of Guests. The Service Provider will serve as the guest coordinator and will have the specific responsibilities outlined below. The Service Provider for this Contract is: The Father’s Heart.**

**Responsibilities for Service Provider:**

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

All services must be conducted in a safe, masked, and social distanced manner. Telephone, text, email, video conference as well as in-person outdoor contacts are acceptable. Service Provider will use alternatives to in-person meetings whenever possible.

**Responsibilities of Contractor:**

Contractor shall provide the following additional services:

- Guest registration and key delivery
- Coordination with selected Service Provider
- No less than weekly cleaning, including fresh linens
- Daily retrieval of garbage, appropriately sealed and left outside the unit’s door
- Maintenance – regular and as needed
- 24/7 phone number for emergencies
- All commercially reasonable services related to the provision of hotel rooms

**Additional terms and conditions:**

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

**No Tenancy: Clackamas County is renting these rooms as a homeless shelter. Guests may not establish residency in a homeless shelter and Guests have no property interest in the Premises. The County’s program for use of the Premises is not transitional, rental, nor permanent housing, and no tenancy or other**



exclusive property interest in the Premises, or to any particular room, is established, intended, or expected. Contractor shall complete the attached Declaration of Persons-In-Charge of Property.

**Guest issues:** Contractor will communicate with Services Provider regarding any Guest issues. Contractor and Service Providers will work in good faith to resolve any issues and concerns.

**Following general hotel rules:** Guests will be required to follow hotel rules. Contractor will review and discuss these rules with the Service Provider.

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

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

**Personal belongings in room:** Contractor shall permit Guests to have 2 large bags of personal items in the homeless shelter hotel room. Guests may not have pets except for service animals.

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

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

**COVID-19:** The County does not intend to place Guests with COVID-19 on the Premises. The Service Provider will coordinate needed healthcare services to Guests. Any Guest that tests positive for COVID may be moved by County to an appropriate facility for self-isolation for a duration in compliance with CDC recommendations. However, neither County nor its Service Provider will be providing COVID-19 testing services to the Guests prior to or during the term of this Contract. Contractor shall comply with County's and any other prevailing infectious disease protocols, whether involving the wearing of masks or gloves, maintaining physical distancing, or otherwise.

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

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

DECLARATION: For purposes of ordering the removal or exclusion of persons from the real property commonly identified as the **Budget Inn Gladstone** located at **19240 SE McLoughlin Blvd. Gladstone, Oregon 97027** ("Property"), and for purposes of enforcing criminal trespass and other laws on the Property, the undersigned, as duly authorized representative of the owner of fee title to the Property ("Owner"), does hereby declare that the following are PERSONS IN CHARGE as that term is defined in ORS 164.205(5) for a period of three months from the date of signature below:

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

IT IS SO DECLARED:

Owner: B. Patela

Name/Title: BHUPENDRA PATEL - MEMBER

Date: 10/7/21

November 4, 2021

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of Agreement #18944 with Ride Connection, Inc. to Provide \$83,348 in HB  
2017 Funding for Dedicated Dialysis Rides Provided by Social Services,  
Transportation Reaching People;  
No County General Funds are Required

<b>Purpose/Outcomes</b>	Funding for Social Services-Transportation Reaching People to provide Dedicated Dialysis Rides to assist older and disabled county residents in meeting their transportation needs to receive dialysis treatment.
<b>Dollar Amount and Fiscal Impact</b>	The total agreement is \$83,348. This agreement is funded through the HB 2017 Statewide Transportation Improvement Funds being passed through Ride Connection
<b>Funding Source</b>	Statewide Transportation Improvement Funds (STIF). No required match. No County general funds are involved.
<b>Duration</b>	Effective July 1, 2021 and terminates on June 30, 2022
<b>Previous Board Action</b>	Issues Topic 11.2.21
<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>Counsel Review</b>	County Counsel reviewed and approved the agreement on 9/30/21 KR
<b>Procurement Review</b>	1. Was this time processed through Procurement? No In no, provide brief explanation: This is a Revenue Grant agreement. Not subject to Procurement Review.
<b>Contact Person</b>	Brenda Durbin, Director, Social Services Division 503-655-8641
<b>Contract No.</b>	H3S #10396

**BACKGROUND:**

The Social Services Division of the Health, Housing and Human Services requests approval of Agreement #18944 with Ride Connection, Inc. This agreement passes through STIF funding to be specifically used for dedicated dialysis rides provided by the Social Services Transportation Reaching People (TRP) program. This agreement provides continuation funding for the portion of the rides that are provided inside the TriMet District to areas that have been designated high equity needs area by the TriMet HD2017 Transit Advisory Committee. This project helps riders to remain independent in meeting their dialysis treatment needs for as long as possible.

The TRP program provides rides in either a lift equipped mini-buses or mini-vans driven by paid staff as well as with volunteer drivers providing rides in their own vehicles. TRP provides transportation to dialysis clinics located throughout the county and in the greater Portland-metro area in these vehicles. When possible, riders with a similar destination and arrival times ride together to increase program efficiencies. Generally, transportation is provided weekdays between 8:00 am and 5:00pm.

This contract is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their contract and approved the Subrecipient agreements issued by Ride Connection. The maximum funding for this agreement is \$83,348. The term of the agreement is July 1, 2021 to June 30, 2022. County Council reviewed and approved this agreement on September 30, 2021. No County General Funds are involved. No matching funds are needed. This agreement provides the first year of the two-year grant funding that was awarded during the January 2021 application cycle.

**RECOMMENDATION:**

Staff recommends the Board approval of this agreement and that the Board Chair, or her designee, to sign on behalf of Clackamas County.

Respectfully submitted,



Rodney A. Cook, Director  
Health Housing & Human Services

**SERVICES AGREEMENT #18944  
BETWEEN  
Ride Connection, Inc. and Clackamas County, by and through its Health, Housing and  
Human Services Department Social Services Division**

**PARTIES:**

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County, by and through its Health, Housing and Human Services Department Social Services Division ("Subrecipient")

**DEFINITIONS:**

As used in this Agreement, which includes all Exhibits:

1. "Americans with Disabilities Act" ("ADA") means section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended by the ADA Amendments Act of 2008.
2. "Capital Asset" means real property or tangible items purchased or leased with STIF moneys, including without limitation vehicles and structures, with a purchase price of \$5,000 or more and a useful life of at least one year.
3. "Commission" means the Oregon Transportation Commission ("OTC") established under ORS 184.612.
4. "Fiscal Year" means the annual period which begins on July 1 and ends on June 30.
5. "Low-Income Household" means a household the total income of which does not exceed 200% of the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2) for the 48 Contiguous States and the District of Columbia.
6. "Project" means a public transportation improvement activity or group of activities that is (i) eligible for STIF moneys; (ii) included in a STIF Plan adopted by the Commission; and (iii) funded by this Agreement.
7. "Project Manager(s)" means the individuals identified in Section 12 of this Agreement who are authorized by Ride Connection and Subrecipient respectively to send and receive communications regarding this Agreement.
8. "Public Transportation Services" means any form of passenger transportation by car, bus, or other conveyance, either publicly or privately owned, which provides service to the general public (not including charter, sightseeing, or exclusive school bus service) on a regular and continuing basis. Such transportation may be for purposes such as health care, shopping, education, employment, public services, personal business, or recreation.

9. “Public Transportation Service Provider” (“PTSP”) means a Qualified Entity or a city, county, Special District, Intergovernmental Entity or any other political subdivision or municipal or Public Corporation that provides Public Transportation Services.
10. “Qualified Entity” means, a county in which no part of a Mass Transit District or Transportation District exists, a Mass Transit District, a Transportation District or an Indian Tribe.
11. “Recipient” means a Qualified Entity or Public Transportation Service Provider that has a STIF Plan approved by the Commission or enters into an Agreement directly with ODOT to receive STIF Formula Funds.
12. “Representation Letter” means a letter prepared by a Subrecipient’s external auditors and sign by Subrecipient’s senior management that attests to the accuracy of the statements that the Subrecipient has submitted to the auditors for their analysis.
13. “Satisfactory Continuing Control” means the legal assurance that a Capital Asset will remain available to be used for its originally authorized purpose throughout its useful life or until disposition.
14. “STIF” or “Statewide Transportation Improvement Fund” means the fund established under ORS 184.751.
15. “STIF Formula Fund” means up to 90 percent of the Statewide Transportation Improvement funds to be disbursed to Qualified Entities conditioned upon the Commission’s approval of a STIF Plan, pursuant to ORS 184.758(1)(a).
16. “STIF Formula Fund Cycle” means the time period between Fiscal Years 2019 through the end of Fiscal Year 2021 (June 30, 2021) that is programmed in the STIF Plan.
17. “STIF Plan” means a public transportation improvement plan that is submitted to the Oregon Department of Transportation for review and approved by the Commission in order to receive a share of the STIF Formula Fund.

**RECITALS:**

1. ORS 184.751 establishes the Statewide Transportation Improvement Fund, which appropriates funds to the Oregon Department of Transportation to finance investments and improvements in public transportation services.
2. The STIF Formula Fund is intended to improve Public Transportation Services for current and potential future Oregon transit users by distributing moneys to Qualified Entities. STIF Formula Funds are not intended to supplant local funding sources to maintain existing services.
3. The Commission has approved TriMet’s multi-year Plan for use of STIF Formula Funds through the end of Fiscal Year 2021. TriMet is a Recipient of STIF Formula Funds as it is authorized to receive STIF Formula Funds directly from the Oregon Department of Transportation. TriMet’s STIF Plan consists of numerous Projects to provide Public Transportation Services in TriMet’s area of responsibility based on anticipated STIF Formula Funds.

4. Subrecipient is authorized to receive STIF Formula Funds and provide Public Transportation Services in TriMet's Area of Responsibility as defined by OAR 732-040-0005(5).
5. TriMet's STIF Plan anticipates sufficient future STIF Formula Funds for Subrecipient for a Project or Projects that provide Public Transportation Services as specified in this Agreement.
6. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of accomplishing the Project(s).
7. Pursuant to ORS Chapter 184 and OAR Chapter 732, Divisions 40 and 42, TriMet and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved STIF Formula Funds to Subrecipient in order for Subrecipient to complete one or more projects specified in the approved FY2022-23 STIF Plan. **Maximum amount of Grant funds shall not exceed \$83,348. These funds shall be used solely for the Project(s) and not be used for any other purpose.**

#### **RECITALS:**

1. TriMet has entered into a Public Transportation Services Contract with Oregon Department of Transportation, acting by and through its Oregon Department of Transportation ("ODOT") Contract ("ODOT Contract").
2. Ride Connection has entered into a contract with TriMet (the "TriMet Contract"). Under the TriMet Contract, Ride Connection will perform delegated functions in furtherance of TriMet's obligations under the ODOT Contract. Specifically, Ride Connection will act as an integration contractor to provide Public Transportation Services in the State of Oregon.
3. Ride Connection wishes to enter into subcontracting agreements with qualified transportation providers for the provision of Public Transportation Services, as more fully set forth in the Statement of Work, attached to Exhibit A (the "Services") in compliance with the terms of the TriMet Contract.
4. Subrecipient wishes to provide the Services under the terms and conditions of this Agreement.

The parties therefore agree as follows:

#### **AGREEMENT:**

##### **1. Term**

This Agreement shall be in effect from **7/1/2021** through **6/30/2022**, unless the Agreement is terminated earlier as provided in this Agreement.

##### **2. General**

A. Subrecipient agrees to comply with and use the STIF Formula funds in accordance with the terms of this Agreement including the terms and conditions of ORS 184.751 through 184.766, the provisions of OAR Chapter 732 Divisions 40 and 42, as may be amended,

TriMet's Approved FY2022-2023 STIF Plan, and any ODOT guidance documents pertaining to the Statewide Transportation Improvement Funds program, 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 Ride Connection regarding disbursement of STIF 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 and the Ride Connection Operation Manual for Transportation Managers (<https://rideconnection.org/partner>).

Subrecipient shall not be relieved of any responsibility for 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 184.751 through 184.766 and the provisions of OAR Chapter 732, Divisions 40 and 42, as may be amended, and the terms of this Agreement. Where provided in this Agreement, Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound as provided in this Agreement and exhibits thereto.

- 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 and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes.
- 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.
- 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 in 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 Workplace Agreement** - Contractor is required to verify that Contractor, its principals, and affiliates will maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance (source: 49 CFR § 32.635).

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

A. STIF 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 184.751 through 184.766 and OAR Chapter 732, parts 40 and 42, 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 STIF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.** Subrecipient shall account for STIF Formula Funds separately. Any interest accrued must be added to the moneys and must be reported to Ride Connection at the end of the Fiscal Year in which it was earned.

- 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 Secretary of the State of Oregon, and the Comptroller General of the United States, or any of their authorized representatives, upon reasonable notice, access to all data and records relating to STIF Formula Funds received or disbursed and to inspect the STIF Plans and Projects financed with STIF Formula Funds including, but not limited to, the financial records, physical premises, and Capital Assets used to deliver public transportation services, 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. Subrecipient shall ensure that its agreements or contracts with subcontractors or vendors include provisions which permit TriMet, ODOT, the Secretary of State of Oregon, or their authorized representatives, access to data and records held by the Subrecipient or vendor as described in this Section.
- E. 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.

#### **4. Reporting Requirements**

- A. In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than the **20th** day 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.
- B. 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, if match is required and expenses.
  - A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.
- C. 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.
- D. Ride Connection, TriMet, and the State reserve the right to request additional information as may be necessary to comply with state reporting requirements.
- E. In addition to any other reporting required by this Agreement or by law, Subrecipient shall submit the following electronic documentation to Ride Connection:
  - The Subrecipient's adopted annual budget for the upcoming Fiscal Year must be submitted no later than 30 days after adoption. A subcontractor is not required to submit its organization's annual budget.
  - The results of any relevant financial audits of the Subrecipient or any subcontractor, as required by a local, state or federal oversight agency for the purposes of statewide reporting including, but not limited to any other report concerning the financial and administrative activities of Subrecipient as required by law that affects the ability of Subrecipient or a subcontractor to perform the functions or programs funded by this Agreement.
- F. Results of audits described in this Section must be submitted to Ride Connection no later than 15 days after receipt of the final results. A copy of information submitted under this Section must be sent to Ride Connection no later than 15 days after submittal to the requesting agency.

#### **5. 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 or compliance review findings relating to the Subrecipient's performance. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and assumes responsibility for breach of conditions of the STIF funding requirements hereunder by

Subrecipient. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet 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. .

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.

## **6. 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 STIF 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.

Subrecipient will include the terms of this Section 6 in any contract with a vendor or subcontractor for the use of STIF Formula Funds.

## **7. Insurance**

Contractor must maintain insurance as set forth in Exhibit F.

## **8. Independent Contractor/Indemnification**

A. **General Indemnity.** To the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, Subrecipient agrees to indemnify and defend Ride Connection, the State of Oregon, and their respective officers, shareholders, members, directors, employees, and agents (the "Indemnitees") and hold them harmless from, for, and against any and all claims, loss, damages, liability, costs, expenses (including), judgments, and obligations), directly or indirectly arising out of or related to the Services or Contractor's performance (including nonperformance and omissions) under this Agreement. Indemnifiable events include but are not limited to:

- a. Unauthorized disclosure of confidential records or protected information, including without limitation records and information protected by the Health Insurance Portability and Accountability Act and the federal regulations implementing the

Act (collectively referred to as "HIPAA"), 42 CFR Part 2, ORS 646A.600 through 646A.628, or OAR 943-014-0400 through 943-014-0465;

- b. Breach or nonfulfillment of any representation, warranty, or covenant set forth in this Agreement;
  - c. Any negligent, wrongful, or culpable act or omission of Contractor in connection with the performance of the Services and its other obligations under this Agreement;
  - d. Any bodily injury or death of any person, damage to real or tangible personal property, or infliction of distress, harassment, or discrimination caused by any acts or omissions of Contractor;
  - e. Any claim related to or arising from Subrecipient's employment or engagement of its agents, Drivers, or other personnel, and the conditions of that employment or engagement; or
  - f. Any failure by Contractor to comply with any Legal Requirements in the performance of the Services or its other obligations under this Agreement.
- B. **Subrecipient Responsibility.** Ride Connection's acceptance of any Subrecipient insurance certificate required under this Agreement does not relieve Subrecipient, or anyone for whose acts Subrecipient is responsible, of liability under this Agreement. Subrecipient's obligations under this Section 8 will survive termination or expiration of this Agreement.
- C. Subrecipient will include the terms of this Section 8 in any contract with a vendor or subcontractor for the use of STIF Formula Funds.

## 9. Limitation of Liability

- A. Ride Connection will not under any circumstances be responsible for any direct, indirect, incidental, special, exemplary, punitive, treble, statutory, or consequential damages or losses (including but not limited to loss of revenue, profit, or use or cost of capital) arising out of or related in any way to this Agreement, the transactions contemplated in this Agreement, or actions or inactions of Ride Connection that arise or relate to Ride Connection's performance under this Agreement, whether or not the possibility of such damages has been disclosed to Ride Connection in advance or could have been reasonably foreseen by Ride Connection.
- B. The parties expressly understand and agree that Ride Connection's overall liability is limited and that under no circumstances will Ride Connection's liability in connection to this Agreement exceed the total payments made by Ride Connection to Subrecipient over the preceding 12 months.

## 10. Suspension

Ride Connection, at its sole discretion, may suspend this Agreement at any time and for any length of time pending investigation of any concerns about Subrecipient's provision of the Services or compliance under this Agreement, or for any other reasons identified in this Agreement. Ride Connection may reinstate Subrecipient to provide the Services once Ride Connection determines, in its sole discretion, that Subrecipient is following, or will follow, the

terms and conditions of this Agreement or that concerns about Subrecipient's provision of the Services are resolved to Ride Connection's satisfaction.

## 11. Vehicle/ Operator Requirements

Subrecipient shall ensure that all drivers of equipment purchased with STIF Formula funds 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.

Subrecipient will include the terms of this Section 11 in any contract with a vendor or subcontractor for the use of STIF Formula Funds.

## 12. 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 **\$83,348**.

C. Subrecipient shall document eligible use of STIF funds in accordance with this Agreement.

D. All invoices shall be submitted electronically to Ride Connection Partner Reporting at [partnerreporting@rideconnection.org](mailto:partnerreporting@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.

## 13. Communications

All notices and other communications concerning this Agreement must bear the number assigned to this Agreement by Ride Connection. Notices and other communications may be

delivered personally, by e-mail, by fax, or by regular, certified, or registered mail, unless a specific method of delivery is required under this Agreement, to the parties' respective Project Managers as indicated below:

Ride Connection:	Clackamas County, by and through its Health, Housing and Human Services Department Social Services Division:
John Whitman 9955 NE Glisan St. Portland, OR 97220	Kristina Babcock 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.

#### **14. Default, Remedies, and Termination**

- A. **Default.** Subrecipient is in default under this Agreement if Ride Connection provides a written notice of default under any of the following circumstances or under any other provision of this Agreement granting a specific right of termination, unless the default is cured, as described in this Agreement:
- a. Subrecipient institutes or has instituted against it insolvency, receivership, or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
  - b. Subrecipient fails to ensure that no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) occurs without thirty (30) days prior written notice from Subrecipient of its insurer, which will be made to Ride Connection;
  - c. Subrecipient commits any breach of this Agreement, fails to perform the Services required under this Agreement within the time specified in this Agreement or any extension thereof, or so fails to pursue the Services as to endanger Subrecipient's performance under this Agreement in accordance with its terms, and such breach or failure is not cured within seven (7) days of receipt of Ride Connection's written notice, or such longer period as Ride Connection may specify in such written notice;
  - d. Subrecipient fails to meet the applicable requirements of 1932, 1903(m) or 1905(t) of the Social Security Act;
  - e. Subrecipient knowingly has a director, officer, partner or agent with beneficial ownership of five percent (5%) or more of Subrecipient's equity, or has an employment, consulting or other subcontract agreement for the provision of items and services that are significant and material to Subrecipient's obligations under this Agreement, as specified in 42 CFR §438.610, concerning whom:
    - i. Any license or certificate required by law or regulation to be held by such person to provide Services required by this Agreement is for any reason

denied, revoked, or not renewed;

- ii. Such person is suspended debarred or otherwise excluded from participating in procurement activities under Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued pursuant to Executive Order No. 12549 or under guidelines implementing such order; or
- iii. Is convicted of a felony or misdemeanor related to a crime or violation of Title XVIII, XIX, or XX of the Social Security Act or related laws (or entered a plea of nolo contendere).

f. If Ride Connection, TriMet, or the State of Oregon determines that the health or welfare of the public is in jeopardy if this Agreement continues

**B. Remedies for Default.** In the event Subrecipient is in default of this Agreement, Ride Connection may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including but not limited to:

- a. Termination of this Agreement;
- b. Withholding of all sums due for Services that Subrecipient has failed to deliver within any scheduled completion dates or has failed to perform service as requested;
- c. Recoupment or withholding of valid overpayments.

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

**C. For Convenience.**

- a. Except as otherwise set forth below, this Agreement may be terminated for Ride Connection's convenience upon 30 days' notice in writing, delivered by certified mail or in person.
- b. At its sole discretion and without liability to Subrecipient, Ride Connection may terminate this Agreement:
  - i. Upon receipt of written notice of termination to Subrecipient, if ODOT fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow TriMet or Ride Connection, in the exercise of its discretion, to continue to make payments under this Agreement;
  - ii. Upon receipt of written notice of termination to Subrecipient that ODOT's purchase or continued use of the Services or under the ODOT Contract is prohibited or that ODOT is prohibited from paying for the same; or
  - iii. Notwithstanding any claim Subrecipient may have under this Agreement, upon receipt of written notice of termination to Subrecipient if Ride Connection reasonably determines that continuation of the Agreement



poses a threat to the health, safety, or welfare of any Customer.

- D. **Immediate Termination for Cause.** Notwithstanding anything to the contrary in this Agreement, this Agreement will automatically terminate for cause on the date that Subrecipient (1) has been terminated from ODOT or is subject to exclusion for any lawful conviction by a court for which the Subrecipient could be excluded under 42 CFR §1001.101 and 42 CFR §455.3(b).
- E. **Payment upon Termination.** Upon Ride Connection's termination of this Agreement for convenience or cause, or upon Subrecipient's termination as described in this Agreement, Subrecipient has 15 days from the date of notification in which to submit and verify data for all unpaid Services. If timely submitted and verified, Subrecipient will be compensated for all the Services performed in accordance with this Agreement up to the effective termination date, minus any offsets by Ride Connection for overpayments or any other costs or damages suffered by Ride Connection.
- F. **Nonwaiver of Suspension/Termination Rights.** Ride Connection's failure to suspend or terminate Subrecipient for any violation of this Agreement will in no way waive, limit, or abrogate Ride Connection's right in its sole discretion to suspend or terminate Subrecipient for any other violations, including past violations. Similarly, Ride Connection's limited degree or duration of a suspension or termination of Subrecipient for a past violation of this Agreement will in no way waive, limit, or abrogate the degree or duration of suspension or termination that Ride Connection in its sole discretion may issue for any other violation, including past violations. Upon termination of this Agreement, Ride Connection may withhold payment of any outstanding claims pending financial audit.
- G. **Contractor Termination.** Contractor may terminate this Agreement upon 30 calendar days' written notice to Ride Connection.

## 15. Assignment/Subcontracts

- A. 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.
- B. 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.

## 16. Dispute Resolution

- A. **Executive Negotiation.** The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach of 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. Notice must 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 calendar days of the date of notice. Within ten days after delivery of the initial notice, the executives of both parties will 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 under this Paragraph shall be confidential and shall be treated as compromise and settlement negotiations for purposes of law and rules of evidence. Time requirements in this Agreement may be modified upon the parties' mutual written consent.

- B. **Mediation.** If the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims must then be submitted to mediation within ten 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 is to be held in Portland, Oregon. This agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement is specifically enforceable under the prevailing law of any court having jurisdiction.
- C. **Litigation.** If the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution by bringing a claim, suit, action, or proceeding (collectively, the "claim") solely and exclusively within the Circuit Court of Multnomah County; provided, however, if a claim must be brought in a federal forum, then it will be conducted solely and exclusively within the United States District Court for the District of Oregon, Portland Division. The parties will submit to the personal jurisdiction of the above courts, accordingly.

**Costs and Award.** The prevailing party in any litigation is eligible for the award of all dispute resolution costs and expenses.

## 17. Claims, Notice

- A. **Notice Period** - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five 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. However, Contractor's obligations to provide Services under this Agreement is conditioned on receiving the funds from Ride Connection, and failure to provide the agreed funding is a material breach of the Agreement by Ride Connection.

## 18. Confidentiality

Subrecipient must comply, and require its employees and all other persons performing services for Subrecipient related to this Agreement to comply, with the following confidentiality provisions:

- A. **General.** Except as otherwise set forth in paragraphs below, Subrecipient must treat all information obtained by or through its performance under this Agreement as confidential information ("Confidential Information") and may not disclose it to any other person or use the Confidential Information in any manner except as necessary to properly discharge its obligations under this Agreement. But Subrecipient may disclose Confidential Information, after seven days' notice to Ride Connection, if disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator order. Subrecipient may also disclose Confidential Information to its employees, consultants, subcontractors and their employees, and others who need to know the content of the Confidential Information solely and exclusively for provision of the Services under this Agreement and who agree to maintain the confidentiality of the Confidential Information. If more stringent confidentiality requirements are imposed with relation to Confidential Information under the Legal Requirements, however, Subrecipient must comply with the more stringent standards.
- B. **Customer Information.** Except as required by other terms of this Agreement, all information obtained by Subrecipient about individuals they serve must be treated as Confidential Information and may not be divulged without the written consent of the individual or their legal guardian. Nothing prohibits the disclosure of information in summary, statistical, or other form, as long as it does not identify particular individuals and is otherwise permitted under this Agreement.
- C. **Media Disclosure.** Subrecipient may not provide information to the media regarding any individuals served under this Agreement without first consulting with and receiving approval from Ride Connection. Subrecipient must immediately notify Ride Connection when media contact occurs. Ride Connection will assist Subrecipient with an appropriate follow-up response for the media.

## 19. Certificate of Oregon Tax Law Compliance

By execution of this contract, Subrecipient certifies under penalty of perjury as provided in ORS 305.385(6) that it is, to the best of its knowledge, not in violation of any Oregon tax law. For purposes of this certification, "Oregon Tax Laws" are ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and sections 10 to 20, chapter 533, Oregon Laws 1981, as amended by chapter 16, Oregon Laws 1982 (first special session); the Elderly Rental Assistance Program under ORS 310.630 to 310.706; and any local taxes administered by the Oregon Department of Revenue under ORS 305.620.

## 20. 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.

## **21. Waiver**

No waiver or other consent under this Agreement will bind either party unless it is in writing and signed by the party to be bound. The waiver or consent will 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 will not constitute a waiver by that party of that or any other provision.

## **22. Severability**

If any term or provision of this Agreement is declared by the arbitrator or a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the parties' rights and obligations will be construed and enforced as though this Agreement did not contain the particular term or provision held to be invalid.

## **23. Remedies Cumulative**

The remedies exercisable by Ride Connection under this Agreement are cumulative and will in no way affect any other remedy available under the law to Ride Connection.

## **24. Merger Clause**

This Agreement constitutes the entire agreement between the parties and no waiver, consent, modification, or change of terms of this Agreement will bind either party unless it is in writing and signed by both parties. Such a waiver, consent, modification, or change, if made, will be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified in this Agreement regarding the parties' agreement. Subrecipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

## **25. Surviving Provisions**

Notwithstanding termination or expiration of this Agreement, the following provisions of this Agreement shall survive and continue to be in full force and effect: 2C (Audit); 8 (Indemnification); 18 (Confidential Information); 16 (Dispute Resolution); 20 Governing Law, 25(Surviving Provisions); Exhibit B 3B (Recordkeeping); and Exhibit F (Insurance).

## **26. Agreement Documents**

This Agreement consists of this Agreement, together with the following exhibits and exhibit attachments, which are incorporated by this reference. Subrecipient agrees to comply with all of the applicable requirements described in the exhibits and to ensure that all exhibits requiring signatures are executed by the appropriate parties and returned to Ride Connection.

- 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

**27. Entire Agreement/Authority**

- A. 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.
- B. 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.
- C. This Agreement may be executed in two or more counterparts (by facsimile or scanned email PDF), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- D. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

**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.**

**Clackamas County, by and through its  
Health, Housing and Human Services  
Department Social Services Division**

\_\_\_\_\_  
Signature

Julie Wilcke Pilmer  
Printed Name

Chief Executive Officer  
Title

\_\_\_\_\_  
Date

Commissioner: Tootie Smith, Chair  
Commissioner: Sonya Fischer  
Commissioner: Paul Savas  
Commissioner: Martha Schrader  
Commissioner: Mark Shull

**Signing on Behalf of the Board:**

By: \_\_\_\_\_  
Tootie Smith, Chair

**Approved to Form:**

By: \_\_\_\_\_  
County Counsel

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

## EXHIBIT A

Clackamas County Social Services

Contract No. 18944

### SCOPE OF WORK

July 1, 2021

**Project Title: Dedicated Dialysis Service - Demand Response & Operating Assistance**

**Funding Source Definitions and Restrictions**

**Project STIF Funds Total for FY22: \$83,348**

The goods and/or services to be provided by Clackamas County Social Services include, but are not limited to the following:

A. Participate in Cost Savings Activities:

Clackamas County agrees to participate in coordination activities with Ride Connection and other Transportation providers Ride Connection contracts with to provide transportation services (“Service Partners”) in the network to meet the demand for service in a cost-effective manner.

B. Coordinate Customer Information, Referral, and Trip Scheduling Activities with the Ride Connection Service Center:

Service partners, who utilize the Ride Connection Service Center to coordinate trips, recognize that this service is currently being funded by dollars outside of this contract. Service Partners agree to work with Ride Connection to investigate opportunities and create solutions to recoup costs accrued for the service performed. Not currently applicable to the Clackamas County programs.

C. Establish and Maintain Customer Confidentiality:

Service Partners agree to maintain the confidentiality of all customer records exchanged with Ride Connection or accessed through Ride Connection coordination, scheduling and dispatch software. In the process of providing service, Service Partners agree to provide only the customer information that is necessary in order for the driver to provide the appropriate level of service for the trip being provided.

D. Provide Shared Capacity Trips:

With increased coordination among service partners, opportunities arise for providers to serve customers who reside in, or have trips originating or ending in areas outside the defined Service Area specified in this contract. Such activity is encouraged to reduce deadhead time on longer distance trips and maximize available capacity. STF Formula funds can be used to cover the costs associated with Shared Capacity Trips. If service boundaries need to be adjusted, partners will be asked to participate in the planning and decision making necessary to align service boundaries with need.

E. Maintain a sufficient number of qualified, approved paid and volunteer drivers and concierge and administrative hours to meet project goals.

## EXHIBIT A

Clackamas County Social Services

Contract No. 18944

- F. Recruit volunteer drivers to drive Ride Connection vehicles, or who are willing to provide proof of coverage if driving their own vehicles and who will meet the criteria necessary to allow them to drive for a Ride Connection program.
- G. Participate with Ride Connection, TriMet and other partners in the development of local, regional and agency specific service plans. Help recruit customers to actively participate in planning processes and service design.
- H. Increase coordination between Ride Connection, other services partners and TriMet to increase transportation options for older adults and people with disabilities. Share information on customers, trips, and destinations with Ride Connection, TriMet, and other partners and jointly plan new services or service changes.
- I. Coordinate outreach activities with Ride Connection. Perform marketing and outreach to community points that are key destinations for older adults and people with disabilities. Participate in Ride Connection sponsored events.
- J. Increase transportation options available to TriMet ADA eligible individuals who, because of their mobility impairment, geographic barriers, or trip destination, may be difficult for LIFT to serve or may require more personalized attention.
- K. Establish transportation options, for older adults or people with disabilities, in the community at large that encourage group trips to common community destinations such as shopping, recreation, senior centers, and nutrition sites.
- L. Encourage older adults and people with disabilities to become aware of and connect with available transportation and community-based services as an alternative to LIFT ADA paratransit services for some or all of their trips.
- M. Provide Ride Connection with back up documentation for billing line items upon request.
- N. Orient drivers to the agency's transportation program and ensure they comply with required training and are aware of other specialized training opportunities available through Ride Connection to maintain safety of operations.
- O. Attend regular coordination and training meetings to be conducted by Ride Connection.
- P. Allow TriMet, ODOT, or Ride Connection representatives to contact a random sample of clients for monitoring and service verification purposes. Clients will be contacted by mail or phone. Agencies will be given a copy of the questionnaire in advance of mailing.
- Q. Notify Ride Connection as soon as possible of unusual conditions that will affect the delivery of services.
- R. Implement Ride Connection's client donation policy to seek rider donations comparable to the TriMet LIFT fare, when appropriate.
- S. Cooperate in the mutually agreed upon submission of requests for additional public or private funds for program expansion and enhancement.
- T. Cooperate in transportation coordination efforts with other organizations such as churches, schools, businesses, and transportation providers.



## EXHIBIT A

Clackamas County Social Services

Contract No. 18944

- U. Implement customer feedback (i.e. complaint, compliment) procedures for individuals using community-based transportation.
- V. Provide service throughout the contract term.

### Project Description:

The Dedicated Dialysis project provides rides to older adults (age 60+) and people with disabilities in Clackamas County who have limited access to transportation for dialysis treatment. This service acts as a lifeline for riders who typically would not have access to alternative no-cost/low-cost transportation to meet their treatment needs. These trips originate in the Clackamas County area of the TriMet district but may transport to anywhere in the metro region. Drivers, including volunteers, are trained for safely transporting dialysis patients.

These TRP rides are provided using three wheelchair accessible vans, two wheelchair accessible buses, and operated by paid drivers. TRP volunteer drivers also provide limited rides in their own vehicle. Taxis are utilized on a limited basis and only when a TRP driver/vehicle, paid or volunteer, isn't available. Riders receive door to door service.

Transportation is provided Monday through Friday. Riders simply call the TRP office to schedule a ride.

Marketing is not done in the traditional sense. Information about the service is regularly distributed to Community Partners & dialysis centers.

### Project Funding:

Category			Total Project Cost
	FY22 Amount	FY23 Amount	
<b>Planning:</b>			
<b>Operating:</b>	\$83,348	\$85,850	\$169,198
<b>Capital:</b>			
<b>Administrative:</b>	0	0	0
<b>Other (describe):</b>			
<b>Total:</b>	<b>\$83,348</b>	<b>\$85,850</b>	<b>\$169,198</b>

**EXHIBIT A**

Clackamas County Social Services

Contract No. 18944

**Project Funding Sources:**

<b>Funding Source</b>	<b>FY22 Amount</b>	<b>FY23 Amount</b>	<b>Total Amount</b>
<b>Source 1: STF/STIF/5310 Funds Requested</b>	<b>\$83,348</b>	<b>\$85,850</b>	<b>\$169,198</b>
Source 2: STF/STIF Ride Conn. Pass-Through	\$589,150	\$606,821	\$1,195,971
Source 3: STF County Consortium	\$33,527	\$34,532	\$68,059
Source 4: 5310 County Consortium	\$38,973	\$38,973	\$77,946
Source 5: STIF County Consortium	\$43,900	\$45,217	\$89,117
Source 6: OAA Title III-B	\$150,000	\$150,000	\$300,000
Source 7: Medicaid for Waivered Non-Medical Transportation	\$33,450	\$33,450	\$66,900
Source 8: In District (TriMet)	\$206,669	\$206,669	\$413,338
Source 9: Sr. Ctr. Agency Other	\$25,000	\$25,000	\$50,000
Source 10: Rider Donations	\$20,000	\$20,500	\$40,500
<b>Total:</b>	<b>\$1,224,017</b>	<b>\$1,247,012</b>	<b>\$2,471,029</b>

**Project Measurables:**

<b>Measurable</b>	<b>FY22:</b>	<b>FY23:</b>	<b>Total</b>
<b>One way Rides</b>	N/A	N/A	N/A
<b>Senior/Person w/ Disability One way Rides</b>	2,300	2,500	4,800
<b>Total paid driver hours</b>	2,500	2,700	5,200
<b>Total volunteer driver hours (increase in hours over FY18 baseline)</b>	30	30	60
<b>Cost per trip</b>	36.21	37.20	36.71
<b># of individuals served</b>	50	52	102
<b>Vehicle Hours</b>	N/A	N/A	N/A
<b>Vehicle Miles</b>	22,500	22,500	45,000

## EXHIBIT B

Clackamas County Social Services  
Agreement #18944

### SPECIFIC AGREEMENT PROVISIONS

**Subrecipient shall comply with the provisions as set forth in this Exhibit. Where provided in Exhibit B, Subrecipient shall require each of its subrecipients or subcontractors to comply with the provisions as set forth in this Exhibit.**

1. **Representations and Warranties of Subrecipient.** Subrecipient represents and warrants to Ride Connection as follows:
  - A. **Organization and Authority.** Subrecipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the STIF Formula Funds. Subrecipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Subrecipient of this Agreement (1) have been duly authorized by all necessary action of Subrecipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Subrecipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is a party or by which Subrecipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subrecipient of this Agreement.
  - B. **Binding Obligation.** This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid and binding obligation of Subrecipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
  - C. **No Solicitation.** Subrecipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to sub agreements, except as permitted by applicable law. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
  - D. **No Debarment.** Neither Subrecipient nor its principals is presently debarred, suspended, or voluntarily excluded from this federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Subrecipient agrees to notify Ride Connection immediately if it is debarred, suspended, or otherwise excluded from this federally assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.
  - E. **Policies and Procedures.** Subrecipient represents and warrants that it has all of the policies and procedures in place to ensure compliance with OAR 732, Divisions 40 and 42, and to achieve the goals and outcomes specified in the Agreement, including but not limited to program and project management, financial management, operations management, procurement, use and maintenance of equipment, records retention, compliance with state and federal civil rights laws, compliance with the Americans with Disabilities Act (ADA),

## EXHIBIT B

Clackamas County Social Services  
Agreement #18944

charter and school bus, and safety and asset management.

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

### 2. Records Maintenance and Access; Audit.

- A. **Retention of Records.** Subrecipient shall retain and keep and require its subrecipients and subcontractors to retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the STIF Formula Funds, or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the expiration date of this Agreement. If there are unresolved audit questions at the end of the six-year period, Subrecipient, its subrecipients and subcontractors shall retain the records until the questions are resolved.
- B. **Expense Records. Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.** Subrecipient shall create and maintain all expense records in accordance with generally accepted accounting principles and in sufficient detail to permit Ride Connection to verify how the funds were expended.
- C. **Audit Requirements.** To the fullest extent permitted by law, Subrecipient shall save, protect and hold harmless Ride Connection from the cost of any audits or special investigations performed with respect to the STIF Formula Funds expended under this Agreement as a result of Subrecipient's acts. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this Agreement. This section does not apply to regular audit and compliance reviews that are conducted pursuant to this Agreement.

### 3. Subrecipient Sub agreement and Procurement

- A. **Sub agreements.** Subrecipient may not enter into agreements with contractors or subcontractors (collectively, "sub agreements") for performance of the Project unless prior approval has been obtained in writing.
  - i. All sub agreements must be in writing executed by Subrecipient and must incorporate and pass through all of the applicable requirements and Exhibits of this Agreement to the other party or parties to the sub agreement(s). Use of a sub agreement does not relieve Subrecipient of its responsibilities under this Agreement. Subrecipient agrees to provide Ride Connection with a copy of any signed sub agreement upon request by Ride Connection. Any substantial breach of a term or condition of a sub agreement relating to funds covered by this Agreement must be reported by Subrecipient to Ride Connection within ten (10) days of its being discovered.
- B. **Subrecipient's subagreement(s) shall require the other party to such subagreement(s) to indemnify, defend, save and hold harmless Ride Connection, Clackamas County, TriMet, the State of Oregon, and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including reasonable attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Subrecipient's sub agreement or any of such party's officers, agents, employees or subcontractors ("Claims"). The sub agreement**

## EXHIBIT B

Clackamas County Social Services  
Agreement #18944

**shall specifically state that it is the specific intention that Ride Connection shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of Ride Connection, be indemnified by the other party to Subrecipient's sub agreement(s) from and against any and all Claims.**

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

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

- C. **Procurements.** Subrecipient will make purchases of any equipment, materials, or services for the Project in compliance with all applicable procurement laws and policies.

#### 4. Termination

- A. **Termination by Ride Connection.** Ride Connection may terminate or suspend this Agreement, in whole or part, effective upon delivery of written notice to Subrecipient, or at such later date as may be established by Ride Connection in such written notice, under any of the following conditions, but not limited to those conditions:
- i. Subrecipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Subrecipient is, for any reason, rendered improbable, impossible, or illegal; or
  - ii. Ride Connection fails to receive funding, appropriations, limitations or other expense authority sufficient to allow Ride Connection, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if Ride Connection determines to terminate or suspend for its own convenience; or
  - iii. Federal or State laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
  - iv. The Project would not produce results commensurate with the further expense of funds; or
  - v. Subrecipient takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.
- B. **Termination by Subrecipient.** Subrecipient may terminate this Agreement effective upon delivery of written notice of termination to Ride Connection, or at such later date as may be established by Subrecipient in such written notice, if:

## EXHIBIT B

Clackamas County Social Services  
Agreement #18944

- i. The requisite local funding to continue the Project becomes unavailable to Subrecipient; or
  - ii. Federal or State laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- C. **Effect of Termination.** The expiration or termination of this Agreement or any Project, for any reason, shall not release Subrecipient from any obligation or liability to Ride Connection, any requirement or obligation that:
- i. Has already accrued hereunder;
  - ii. Comes into effect due to the expiration or termination of the Agreement; or
  - iii. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement or any Project as provided in this Section, Subrecipient shall promptly identify all unexpended funds and return all unexpended funds to Ride Connection. Unexpended funds are those funds received by Subrecipient under this Agreement that (i) have not been spent or expended to pay the costs or expenses of the Project or Projects; and (ii) are not required to pay costs or expenses of the terminated Project(s) that will become due and payable as a result of the termination of the Project(s).

Subrecipient's identification and calculation of unexpended funds in this Section is Subject to the requirements of this Agreement.

### 5. General Provisions

- A. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against Ride Connection or Subrecipient with respect to which the other party may have liability, the notified party must promptly notify the other party in writing of the Third Party Claim and deliver to the other party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a party of the notice and copies required in this paragraph and meaningful opportunity for the party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that party's liability with respect to the Third Party Claim.

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

## EXHIBIT B

Clackamas County Social Services  
Agreement #18944

capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if Ride Connection had sole liability in the proceeding.

With respect to a Third Party Claim for which Subrecipient is jointly liable with Ride Connection (or would be if joined in the Third Party Claim), Subrecipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Ride Connection in such proportion as is appropriate to reflect the relative fault of Subrecipient on the one hand and of Ride Connection on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Subrecipient on the one hand and of Ride Connection on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. If Subrecipient is a public body, Subrecipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, if Subrecipient had sole liability in the proceeding.

- B. **Duplicate Payment.** Subrecipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America, Ride Connection or any other party, organization or individual.
- C. **No Third Party Beneficiaries.** Ride Connection and Subrecipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.
- D. **Notices.** Except as otherwise expressly provided in this Agreement, 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 Subrecipient's Project Manager or Ride Connection's Project Manager at the address or number set forth in Section **13 Communications** of this Agreement, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given three days after the date of mailing
- E. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Ride Connection and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Multnomah

## EXHIBIT B

Clackamas County Social Services  
Agreement #18944

County in the State of Oregon. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT, WAIVES ANY OBJECTION TO VENUE, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM.

- F. **Insurance; Workers' Compensation.** All employers, including Subrecipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Subrecipient shall ensure that each of its contractor(s) and subcontractor(s) complies with these requirements. Subrecipient shall include in any subcontracts to perform services pursuant to this Agreement a provision requiring a subcontractor to comply with this Subsection F, and that failure to do so is a material breach of the subcontract with Subrecipient.
- G. **Independent Contractor.** Subrecipient shall perform the Project as an independent contractor and not as an agent or employee of Ride Connection. Subrecipient shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to workers compensation, unemployment taxes and state and federal income tax withholdings. Subrecipient has no right or authority to incur or create any obligation for or legally bind Ride Connection in any way. Ride Connection cannot and will not control the means or manner by which Subrecipient performs the Project, except as specifically set forth in this Agreement. Subrecipient is responsible for determining the appropriate means and manner of performing the Project. Subrecipient acknowledges and agrees that Subrecipient, its officers, directors, employees, subcontractors or volunteers are not an "officer," "employee," or "agent" of Ride Connection, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary. Neither Subrecipient, nor its directors, officers, employees, subcontractors, or volunteers shall hold themselves out either explicitly or implicitly as officers, employees, or agents of Ride Connection for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise, or joint venture between the parties.



## EXHIBIT C

Clackamas County Social Services  
Agreement #18944

### **Summary of Federal Terms and Conditions and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements (“Certifications and Assurances”) and Federal Transit Administration Master Agreement (“Master Agreement”)**

Provider and Provider’s Subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at <https://www.transit.dot.gov/grantee-resources/certifications-and-assurances/fy2021-annual-list-certifications-and-assurances>. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Provider must submit to Ride Connection on or before July 1 of each year during the term of this Agreement an executed copy of the Certifications and Assurances by printing the form available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>, completing the form, and sending it to Ride Connection.

Provider shall comply with the following provisions and require in its subagreements that the subcontractors comply with each of the following provisions as if the subcontractors were Provider:

Provider agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from Ride Connection or by calling the State at (503) 986-3300, or at <http://fta.dot.gov/documents/21-Master.pdf>. Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and three grant Funds being disbursed to Provider under this Agreement:

1. Provider shall comply with Title VI of the Civil Rights Act of 1964 and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Provider shall exclude no person on the grounds of race, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Provider will report to Ride Connection on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Provider shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.

## EXHIBIT C

Clackamas County Social Services  
Agreement #18944

3. Provider shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Provider shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Provider's DBE program, if applicable, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to Ride Connection of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

## EXHIBIT D

Clackamas County Social Services  
Agreement # 18944

### NONDISCRIMINATION CERTIFICATE

*Subrecipient certifies compliance with the following nondiscrimination requirements:*

#### **Nondiscrimination**

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Subrecipient assures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Subrecipient receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Subrecipient retains ownership or possession of the project property, whichever is longer, the Subrecipient assures that:

- (1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Subrecipient assures that it will submit the required information pertaining to its compliance with these provisions.
- (3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d and 49 CFR part 21 to other parties involved therein including any Subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.
- (4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for

## EXHIBIT D

Clackamas County Social Services  
Agreement # 18944

which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.

- (5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance.
- (6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21.

Subrecipient acknowledges that it is subject to the requirements of FTA Circular 4702.1A "*Title VI and Title VI-Dependent Guidelines for FTA Recipients*" as a Subrecipient of federal funds under this Agreement. Further, Subrecipient shall provide Title VI compliance information and measures as may be determined by Ride Connection pursuant to the Circular.

### **Assurance of Nondiscrimination on the Basis of Disability**

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the Subrecipient assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Subrecipient assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

## EXHIBIT E

Clackamas County Social  
Services Agreement # 18944

### Reporting Requirements

Reports are due to the Service Data Specialist at Ride Connection by the 20th of each month.

Reports:

- Service Summary Reports
  - Trip Data
  - Financial Data (must reflect full monthly transportation program costs)
- Vehicle Operations Report and all vehicle invoices
- Unduplicated Age and Ethnicity Report

Required reporting items include:

- Trips by Trip Purpose
- Mileage
- Turndowns
- Volunteer and Paid Driver Hours
- Admin and Escort non-driver Volunteer hours
- Transportation Program Expenses
- Donations
- Funds received from other Agencies to support program (Agency Other)
- Unduplicated Riders (Counts by Age and Ethnicity)
- Vehicle Maintenance invoices (reimbursable and non-reimbursable amounts)
- Any other required fields requested to meet reporting requirements

Copies of the above stated forms must be created per each Provider's specific program requirements and will be sent to Providers electronically. Providers should always utilize the most current reporting forms sent by Ride Connection. All forms should be submitted electronically, unless otherwise instructed by Ride Connection.

Ride Connection must be notified on or before the 20th of each month if a delay in report submission is anticipated.

Reports and questions regarding reporting requirements should be directed to the Service Data Specialist:

Fax (503) 528-1755

[partner\\_reporting@rideconnection.org](mailto:partner_reporting@rideconnection.org)

## EXHIBIT F

Clackamas County Social Services  
Agreement # 18944

### INSURANCE REQUIREMENTS

#### General

Subrecipient shall obtain and provide, and require in its first tier sub agreements with entities that are not units of local government as defined in ORS 190.003, if any, that the subcontractor obtain and provide the same insurance applicable to Subrecipient for subcontractor's performance under is sub agreement:

- i. Insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance of this Agreement and of any sub agreement commences, and
- ii. Maintain the insurance in full force throughout the duration of this Agreement and sub agreement. Proof of sufficient self-insurance shall satisfy this requirement.

The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Ride Connection. Subrecipient shall not commence work under this Agreement, and shall not authorize work to begin under a sub agreement until the insurance is in full force. Thereafter, Subrecipient shall monitor continued compliance with the insurance requirements in its sub agreements on an annual or more frequent basis. Subrecipient shall incorporate appropriate provisions in the sub agreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Subrecipient permit work under a sub agreement when Subrecipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a sub agreement in which the Subrecipient is a Party.

Subrecipient shall comply with any requirements of Ride Connection with respect to Subrecipient's compliance with these insurance requirements, including but not limited to Ride Connection issued stop work orders (or the equivalent) until the insurance is in full force, or terminating the Contract as permitted by this Contract, or pursuing legal action to enforce the insurance requirements.

While this Agreement is in effect, Subrecipient agrees that it shall maintain in effect the insurance coverage set forth below, as well as to require any subcontractors it uses to agree to comply with the insurance requirements provided below. Prior to commencement of work under this Agreement, Subrecipient shall furnish to Ride Connection a certificate(s) of insurance executed by a duly authorized representative of each insurer showing compliance with the insurance requirements below. Failure of Ride Connection to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Subrecipient's obligation to require such insurance from its subcontractors.

Subrecipient, as well as all of its subcontractors shall be responsible for payment of all respective premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below, and shall be from carriers acceptable to Ride Connection:

## EXHIBIT F

Clackamas County Social Services  
Agreement # 18944

### Types and Amounts

- I. **WORKERS COMPENSATION.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2).

The employer's liability limit shall not be less than \$500,000 each accident for bodily injury by an accident and \$500,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.

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

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

Insurance policy shall include Sexual Abuse/Molestation coverage with limits no less than \$500,000 per occurrence/aggregate.

- III. **AUTOMOBILE LIABILITY:** Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by Ride Connection:

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence). Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).

### Additional Insured

The Commercial General Liability Insurance and Automobile Liability insurance must include State and Ride Connection, and their respective officers, employees and agents as Additional Insureds but only with respect to the Subrecipient's activities to be performed under the Agreement and, with respect to subcontractors, activities to be performed under their sub agreements. Coverage must be primary and non-contributory with any other insurance and self-insurance.

The insurance required under this Paragraph shall include Ride Connection, TriMet, the State of Oregon, the Federal Transit Administration, and each of their respective directors, officers, agents, elected officials, and employees as additional insureds with respect to work or operations connected with the Agreement.

## EXHIBIT F

Clackamas County Social Services  
Agreement # 18944

### **"Tail" Coverage**

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Subrecipient and the subcontractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Agreement for Subrecipient, and the effective date of the sub agreement for subcontractors, for a minimum of 24 months following the later of:

- i. The Subrecipient's completion and Ride Connection's acceptance of all services required under this Agreement, and the subcontractors completion and Subrecipient's acceptance of all services required under the sub agreement or,
- ii. The expiration of all warranty periods provided under this Agreement with respect to Subrecipient and the sub agreement with respect to the subcontractor.

Notwithstanding the foregoing 24-month requirement, if the Subrecipient or subcontractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the Subrecipient or subcontractor may request and Ride Connection may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If Ride Connection approval is granted, the Subrecipient or subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

### **Notice of Cancellation or Change**

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

### **Certificate(s) of Insurance**

Subrecipient shall submit to Ride Connection a certificate(s) of insurance for all required insurance before the commencement of performance of services. The certificate(s) or an attached endorsement must specify:

- i. All entities and individuals who are endorsed on the policy as Additional Insured and
- ii. For insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.



November 4, 2021

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of Agreement #18945 with Ride Connection, Inc. to Provide \$85,349 in HB 2017 Funding for Dedicated Medical Rides Provided by Social Services and Transportation Reaching People; No County General Funds are Required

<b>Purpose/Outcomes</b>	Funding for Social Services-Transportation Reaching People to provide Dedicated Dialysis Rides to assist older and disabled county residents in meeting their transportation needs to receive dialysis treatment.
<b>Dollar Amount and Fiscal Impact</b>	The total agreement is \$85,349. This agreement is funded through the HB 2017 Statewide Transportation Improvement Funds being passed through Ride Connection
<b>Funding Source</b>	Statewide Transportation Improvement Funds (STIF). No required match. No County general funds are involved.
<b>Duration</b>	Effective July 1, 2021 and terminates on June 30, 2022
<b>Previous Board Action</b>	
<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>Counsel Review</b>	County Counsel reviewed and approved the agreement on 9/30/21 KR
<b>Procurement Review</b>	1. Was this time processed through Procurement? No In no, provide brief explanation: This is a Revenue Grant agreement. Not subject to Procurement Review.
<b>Contact Person</b>	Brenda Durbin, Director, Social Services Division 503-655-8641
<b>Contract No.</b>	H3S #10397

**BACKGROUND:**

The Social Services Division of the Health, Housing and Human Services requests approval of Agreement #18945 with Ride Connection, Inc. This agreement passes through STIF funding to be specifically used for dedicated medical rides provided by the Social Services Transportation Reaching People (TRP) program. This agreement provides continuation funding for the portion of the rides that are provided inside the TriMet District to areas that have been designated high equity needs area by the TriMet HD2017 Transit Advisory Committee. This project helps riders to remain independent in meeting their medical treatment needs for as long as possible.

The TRP program provides rides in either a lift equipped mini-buses or mini-vans driven by paid staff as well as with volunteer drivers providing rides in their own vehicles. TRP provides transportation to dialysis clinics located throughout the county and in the greater Portland-metro area in these vehicles. When possible, riders with a similar destination and arrival times ride together to increase program efficiencies. Generally, transportation is provided weekdays between 8:00 am and 5:00pm.

This contract is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their contract and approved the Subrecipient agreements issued by Ride Connection. The maximum funding for this agreement is \$85,349. The term of the agreement is July 1, 2021 to June 30, 2022. County Council reviewed and approved this agreement on September 30, 2021. No County General Funds are involved. No matching funds are needed. This agreement provides the first year of the two-year grant funding that was awarded during the January 2021 application cycle.

**RECOMMENDATION:**

Staff recommends the Board approval of this agreement and that the Board Chair, or her designee, to sign on behalf of Clackamas County.

Respectfully submitted,



Rodney A. Cook, Director  
Health Housing & Human Services

**SERVICES AGREEMENT #18945  
BETWEEN  
Ride Connection, Inc. and Clackamas County, by and through its Health, Housing and  
Human Services Department Social Services Division**

**PARTIES:**

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County, by and through its Health, Housing and Human Services Department Social Services Division ("Subrecipient")

**DEFINITIONS:**

As used in this Agreement, which includes all Exhibits:

1. "Americans with Disabilities Act" ("ADA") means section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended by the ADA Amendments Act of 2008.
2. "Capital Asset" means real property or tangible items purchased or leased with STIF moneys, including without limitation vehicles and structures, with a purchase price of \$5,000 or more and a useful life of at least one year.
3. "Commission" means the Oregon Transportation Commission ("OTC") established under ORS 184.612.
4. "Fiscal Year" means the annual period which begins on July 1 and ends on June 30.
5. "Low-Income Household" means a household the total income of which does not exceed 200% of the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2) for the 48 Contiguous States and the District of Columbia.
6. "Project" means a public transportation improvement activity or group of activities that is (i) eligible for STIF moneys; (ii) included in a STIF Plan adopted by the Commission; and (iii) funded by this Agreement.
7. "Project Manager(s)" means the individuals identified in Section 12 of this Agreement who are authorized by Ride Connection and Subrecipient respectively to send and receive communications regarding this Agreement.
8. "Public Transportation Services" means any form of passenger transportation by car, bus, or other conveyance, either publicly or privately owned, which provides service to the general public (not including charter, sightseeing, or exclusive school bus service) on a regular and continuing basis. Such transportation may be for purposes such as health care, shopping, education, employment, public services, personal business, or recreation.

9. “Public Transportation Service Provider” (“PTSP”) means a Qualified Entity or a city, county, Special District, Intergovernmental Entity or any other political subdivision or municipal or Public Corporation that provides Public Transportation Services.
10. “Qualified Entity” means, a county in which no part of a Mass Transit District or Transportation District exists, a Mass Transit District, a Transportation District or an Indian Tribe.
11. “Recipient” means a Qualified Entity or Public Transportation Service Provider that has a STIF Plan approved by the Commission or enters into an Agreement directly with ODOT to receive STIF Formula Funds.
12. “Representation Letter” means a letter prepared by a Subrecipient’s external auditors and sign by Subrecipient’s senior management that attests to the accuracy of the statements that the Subrecipient has submitted to the auditors for their analysis.
13. “Satisfactory Continuing Control” means the legal assurance that a Capital Asset will remain available to be used for its originally authorized purpose throughout its useful life or until disposition.
14. “STIF” or “Statewide Transportation Improvement Fund” means the fund established under ORS 184.751.
15. “STIF Formula Fund” means up to 90 percent of the Statewide Transportation Improvement funds to be disbursed to Qualified Entities conditioned upon the Commission’s approval of a STIF Plan, pursuant to ORS 184.758(1)(a).
16. “STIF Formula Fund Cycle” means the time period between Fiscal Years 2019 through the end of Fiscal Year 2021 (June 30, 2021) that is programmed in the STIF Plan.
17. “STIF Plan” means a public transportation improvement plan that is submitted to the Oregon Department of Transportation for review and approved by the Commission in order to receive a share of the STIF Formula Fund.

**RECITALS:**

1. ORS 184.751 establishes the Statewide Transportation Improvement Fund, which appropriates funds to the Oregon Department of Transportation to finance investments and improvements in public transportation services.
2. The STIF Formula Fund is intended to improve Public Transportation Services for current and potential future Oregon transit users by distributing moneys to Qualified Entities. STIF Formula Funds are not intended to supplant local funding sources to maintain existing services.
3. The Commission has approved TriMet’s multi-year Plan for use of STIF Formula Funds through the end of Fiscal Year 2021. TriMet is a Recipient of STIF Formula Funds as it is authorized to receive STIF Formula Funds directly from the Oregon Department of Transportation. TriMet’s STIF Plan consists of numerous Projects to provide Public Transportation Services in TriMet’s area of responsibility based on anticipated STIF Formula Funds.

4. Subrecipient is authorized to receive STIF Formula Funds and provide Public Transportation Services in TriMet's Area of Responsibility as defined by OAR 732-040-0005(5).
5. TriMet's STIF Plan anticipates sufficient future STIF Formula Funds for Subrecipient for a Project or Projects that provide Public Transportation Services as specified in this Agreement.
6. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of accomplishing the Project(s).
7. Pursuant to ORS Chapter 184 and OAR Chapter 732, Divisions 40 and 42, TriMet and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved STIF Formula Funds to Subrecipient in order for Subrecipient to complete one or more projects specified in the approved FY2022-23 STIF Plan. **Maximum amount of Grant funds shall not exceed \$85,349. These funds shall be used solely for the Project(s) and not be used for any other purpose.**

#### **RECITALS:**

1. TriMet has entered into a Public Transportation Services Contract with Oregon Department of Transportation, acting by and through its Oregon Department of Transportation ("ODOT") Contract ("ODOT Contract").
2. Ride Connection has entered into a contract with TriMet (the "TriMet Contract"). Under the TriMet Contract, Ride Connection will perform delegated functions in furtherance of TriMet's obligations under the ODOT Contract. Specifically, Ride Connection will act as an integration contractor to provide Public Transportation Services in the State of Oregon.
3. Ride Connection wishes to enter into subcontracting agreements with qualified transportation providers for the provision of Public Transportation Services, as more fully set forth in the Statement of Work, attached to Exhibit A (the "Services") in compliance with the terms of the TriMet Contract.
4. Subrecipient wishes to provide the Services under the terms and conditions of this Agreement.

The parties therefore agree as follows:

#### **AGREEMENT:**

##### **1. Term**

This Agreement shall be in effect from **7/1/2021** through **6/30/2022**, unless the Agreement is terminated earlier as provided in this Agreement.

##### **2. General**

- A. Subrecipient agrees to comply with and use the STIF Formula funds in accordance with the terms of this Agreement including the terms and conditions of ORS 184.751 through 184.766, the provisions of OAR Chapter 732 Divisions 40 and 42, as may be amended,

TriMet's Approved FY2022-2023 STIF Plan, and any ODOT guidance documents pertaining to the Statewide Transportation Improvement Funds program, 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 Ride Connection regarding disbursement of STIF 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 and the Ride Connection Operation Manual for Transportation Managers (<https://rideconnection.org/partner>).

Subrecipient shall not be relieved of any responsibility for 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 184.751 through 184.766 and the provisions of OAR Chapter 732, Divisions 40 and 42, as may be amended, and the terms of this Agreement. Where provided in this Agreement, Subrecipient shall specifically include in all subcontracts a requirement that the subcontractor shall be bound as provided in this Agreement and exhibits thereto.

- 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 and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes.
- 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.
- 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 in 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 Workplace Agreement** - Contractor is required to verify that Contractor, its principals, and affiliates will maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance (source: 49 CFR § 32.635).

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

A. STIF 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 184.751 through 184.766 and OAR Chapter 732, parts 40 and 42, 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 STIF funds. **Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.** Subrecipient shall account for STIF Formula Funds separately. Any interest accrued must be added to the moneys and must be reported to Ride Connection at the end of the Fiscal Year in which it was earned.

- 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 Secretary of the State of Oregon, and the Comptroller General of the United States, or any of their authorized representatives, upon reasonable notice, access to all data and records relating to STIF Formula Funds received or disbursed and to inspect the STIF Plans and Projects financed with STIF Formula Funds including, but not limited to, the financial records, physical premises, and Capital Assets used to deliver public transportation services, 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. Subrecipient shall ensure that its agreements or contracts with subcontractors or vendors include provisions which permit TriMet, ODOT, the Secretary of State of Oregon, or their authorized representatives, access to data and records held by the Subrecipient or vendor as described in this Section.
- E. 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.



#### **4. Reporting Requirements**

- A. In order to be reimbursed, Subrecipient shall submit monthly reports to Ride Connection no later than the **20th** day 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.
- B. 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, if match is required and expenses.
  - A description project deliverables, tasks, and schedule completed for each month, including a description of how stated goals are being met.
- C. 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.
- D. Ride Connection, TriMet, and the State reserve the right to request additional information as may be necessary to comply with state reporting requirements.
- E. In addition to any other reporting required by this Agreement or by law, Subrecipient shall submit the following electronic documentation to Ride Connection:
  - The Subrecipient's adopted annual budget for the upcoming Fiscal Year must be submitted no later than 30 days after adoption. A subcontractor is not required to submit its organization's annual budget.
  - The results of any relevant financial audits of the Subrecipient or any subcontractor, as required by a local, state or federal oversight agency for the purposes of statewide reporting including, but not limited to any other report concerning the financial and administrative activities of Subrecipient as required by law that affects the ability of Subrecipient or a subcontractor to perform the functions or programs funded by this Agreement.
- F. Results of audits described in this Section must be submitted to Ride Connection no later than 15 days after receipt of the final results. A copy of information submitted under this Section must be sent to Ride Connection no later than 15 days after submittal to the requesting agency.

#### **5. 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 or compliance review findings relating to the Subrecipient's performance. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and assumes responsibility for breach of conditions of the STIF funding requirements hereunder by

Subrecipient. Subrecipient shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet 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. .

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.

## **6. 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 STIF 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.

Subrecipient will include the terms of this Section 6 in any contract with a vendor or subcontractor for the use of STIF Formula Funds.

## **7. Insurance**

Contractor must maintain insurance as set forth in Exhibit F.

## **8. Independent Contractor/Indemnification**

A. **General Indemnity.** To the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, Subrecipient agrees to indemnify and defend Ride Connection, the State of Oregon, and their respective officers, shareholders, members, directors, employees, and agents (the "Indemnitees") and hold them harmless from, for, and against any and all claims, loss, damages, liability, costs, expenses (including), judgments, and obligations), directly or indirectly arising out of or related to the Services or Contractor's performance (including nonperformance and omissions) under this Agreement. Indemnifiable events include but are not limited to:

- a. Unauthorized disclosure of confidential records or protected information, including without limitation records and information protected by the Health Insurance Portability and Accountability Act and the federal regulations implementing the

Act (collectively referred to as "HIPAA"), 42 CFR Part 2, ORS 646A.600 through 646A.628, or OAR 943-014-0400 through 943-014-0465;

- b. Breach or nonfulfillment of any representation, warranty, or covenant set forth in this Agreement;
  - c. Any negligent, wrongful, or culpable act or omission of Contractor in connection with the performance of the Services and its other obligations under this Agreement;
  - d. Any bodily injury or death of any person, damage to real or tangible personal property, or infliction of distress, harassment, or discrimination caused by any acts or omissions of Contractor;
  - e. Any claim related to or arising from Subrecipient's employment or engagement of its agents, Drivers, or other personnel, and the conditions of that employment or engagement; or
  - f. Any failure by Contractor to comply with any Legal Requirements in the performance of the Services or its other obligations under this Agreement.
- B. **Subrecipient Responsibility.** Ride Connection's acceptance of any Subrecipient insurance certificate required under this Agreement does not relieve Subrecipient, or anyone for whose acts Subrecipient is responsible, of liability under this Agreement. Subrecipient's obligations under this Section 8 will survive termination or expiration of this Agreement.
- C. Subrecipient will include the terms of this Section 8 in any contract with a vendor or subcontractor for the use of STIF Formula Funds.

## 9. Limitation of Liability

- A. Ride Connection will not under any circumstances be responsible for any direct, indirect, incidental, special, exemplary, punitive, treble, statutory, or consequential damages or losses (including but not limited to loss of revenue, profit, or use or cost of capital) arising out of or related in any way to this Agreement, the transactions contemplated in this Agreement, or actions or inactions of Ride Connection that arise or relate to Ride Connection's performance under this Agreement, whether or not the possibility of such damages has been disclosed to Ride Connection in advance or could have been reasonably foreseen by Ride Connection.
- B. The parties expressly understand and agree that Ride Connection's overall liability is limited and that under no circumstances will Ride Connection's liability in connection to this Agreement exceed the total payments made by Ride Connection to Subrecipient over the preceding 12 months.

## 10. Suspension

Ride Connection, at its sole discretion, may suspend this Agreement at any time and for any length of time pending investigation of any concerns about Subrecipient's provision of the Services or compliance under this Agreement, or for any other reasons identified in this Agreement. Ride Connection may reinstate Subrecipient to provide the Services once Ride Connection determines, in its sole discretion, that Subrecipient is following, or will follow, the

terms and conditions of this Agreement or that concerns about Subrecipient's provision of the Services are resolved to Ride Connection's satisfaction.

## 11. Vehicle/ Operator Requirements

Subrecipient shall ensure that all drivers of equipment purchased with STIF Formula funds 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.

Subrecipient will include the terms of this Section 11 in any contract with a vendor or subcontractor for the use of STIF Formula Funds.

## 12. 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 **\$85,349**.

C. Subrecipient shall document eligible use of STIF funds in accordance with this Agreement.

D. All invoices shall be submitted electronically to Ride Connection Partner Reporting at [partnerreporting@rideconnection.org](mailto:partnerreporting@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.

## 13. Communications

All notices and other communications concerning this Agreement must bear the number assigned to this Agreement by Ride Connection. Notices and other communications may be

delivered personally, by e-mail, by fax, or by regular, certified, or registered mail, unless a specific method of delivery is required under this Agreement, to the parties' respective Project Managers as indicated below:

Ride Connection:	Clackamas County, by and through its Health, Housing and Human Services Department Social Services Division:
John Whitman 9955 NE Glisan St. Portland, OR 97220	Kristina Babcock 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.

#### **14. Default, Remedies, and Termination**

- A. **Default.** Subrecipient is in default under this Agreement if Ride Connection provides a written notice of default under any of the following circumstances or under any other provision of this Agreement granting a specific right of termination, unless the default is cured, as described in this Agreement:
- a. Subrecipient institutes or has instituted against it insolvency, receivership, or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
  - b. Subrecipient fails to ensure that no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) occurs without thirty (30) days prior written notice from Subrecipient of its insurer, which will be made to Ride Connection;
  - c. Subrecipient commits any breach of this Agreement, fails to perform the Services required under this Agreement within the time specified in this Agreement or any extension thereof, or so fails to pursue the Services as to endanger Subrecipient's performance under this Agreement in accordance with its terms, and such breach or failure is not cured within seven (7) days of receipt of Ride Connection's written notice, or such longer period as Ride Connection may specify in such written notice;
  - d. Subrecipient fails to meet the applicable requirements of 1932, 1903(m) or 1905(t) of the Social Security Act;
  - e. Subrecipient knowingly has a director, officer, partner or agent with beneficial ownership of five percent (5%) or more of Subrecipient's equity, or has an employment, consulting or other subcontract agreement for the provision of items and services that are significant and material to Subrecipient's obligations under this Agreement, as specified in 42 CFR §438.610, concerning whom:
    - i. Any license or certificate required by law or regulation to be held by such person to provide Services required by this Agreement is for any reason

denied, revoked, or not renewed;

- ii. Such person is suspended debarred or otherwise excluded from participating in procurement activities under Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued pursuant to Executive Order No. 12549 or under guidelines implementing such order; or
- iii. Is convicted of a felony or misdemeanor related to a crime or violation of Title XVIII, XIX, or XX of the Social Security Act or related laws (or entered a plea of nolo contendere).

f. If Ride Connection, TriMet, or the State of Oregon determines that the health or welfare of the public is in jeopardy if this Agreement continues

**B. Remedies for Default.** In the event Subrecipient is in default of this Agreement, Ride Connection may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including but not limited to:

- a. Termination of this Agreement;
- b. Withholding of all sums due for Services that Subrecipient has failed to deliver within any scheduled completion dates or has failed to perform service as requested;
- c. Recoupment or withholding of valid overpayments.

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

**C. For Convenience.**

- a. Except as otherwise set forth below, this Agreement may be terminated for Ride Connection's convenience upon 30 days' notice in writing, delivered by certified mail or in person.
- b. At its sole discretion and without liability to Subrecipient, Ride Connection may terminate this Agreement:
  - i. Upon receipt of written notice of termination to Subrecipient, if ODOT fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow TriMet or Ride Connection, in the exercise of its discretion, to continue to make payments under this Agreement;
  - ii. Upon receipt of written notice of termination to Subrecipient that ODOT's purchase or continued use of the Services or under the ODOT Contract is prohibited or that ODOT is prohibited from paying for the same; or
  - iii. Notwithstanding any claim Subrecipient may have under this Agreement, upon receipt of written notice of termination to Subrecipient if Ride Connection reasonably determines that continuation of the Agreement

poses a threat to the health, safety, or welfare of any Customer.

- D. **Immediate Termination for Cause.** Notwithstanding anything to the contrary in this Agreement, this Agreement will automatically terminate for cause on the date that Subrecipient (1) has been terminated from ODOT or is subject to exclusion for any lawful conviction by a court for which the Subrecipient could be excluded under 42 CFR §1001.101 and 42 CFR §455.3(b).
- E. **Payment upon Termination.** Upon Ride Connection's termination of this Agreement for convenience or cause, or upon Subrecipient's termination as described in this Agreement, Subrecipient has 15 days from the date of notification in which to submit and verify data for all unpaid Services. If timely submitted and verified, Subrecipient will be compensated for all the Services performed in accordance with this Agreement up to the effective termination date, minus any offsets by Ride Connection for overpayments or any other costs or damages suffered by Ride Connection.
- F. **Nonwaiver of Suspension/Termination Rights.** Ride Connection's failure to suspend or terminate Subrecipient for any violation of this Agreement will in no way waive, limit, or abrogate Ride Connection's right in its sole discretion to suspend or terminate Subrecipient for any other violations, including past violations. Similarly, Ride Connection's limited degree or duration of a suspension or termination of Subrecipient for a past violation of this Agreement will in no way waive, limit, or abrogate the degree or duration of suspension or termination that Ride Connection in its sole discretion may issue for any other violation, including past violations. Upon termination of this Agreement, Ride Connection may withhold payment of any outstanding claims pending financial audit.
- G. **Contractor Termination.** Contractor may terminate this Agreement upon 30 calendar days' written notice to Ride Connection.

## 15. Assignment/Subcontracts

- A. 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.
- B. 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.

## 16. Dispute Resolution

- A. **Executive Negotiation.** The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach of 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. Notice must 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 calendar days of the date of notice. Within ten days after delivery of the initial notice, the executives of both parties will 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 under this Paragraph shall be confidential and shall be treated as compromise and settlement negotiations for purposes of law and rules of evidence. Time requirements in this Agreement may be modified upon the parties' mutual written consent.

- B. **Mediation.** If the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims must then be submitted to mediation within ten 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 is to be held in Portland, Oregon. This agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement is specifically enforceable under the prevailing law of any court having jurisdiction.
- C. **Litigation.** If the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution by bringing a claim, suit, action, or proceeding (collectively, the "claim") solely and exclusively within the Circuit Court of Multnomah County; provided, however, if a claim must be brought in a federal forum, then it will be conducted solely and exclusively within the United States District Court for the District of Oregon, Portland Division. The parties will submit to the personal jurisdiction of the above courts, accordingly.

**Costs and Award.** The prevailing party in any litigation is eligible for the award of all dispute resolution costs and expenses.

## 17. Claims, Notice

- A. **Notice Period** - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five 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. However, Contractor's obligations to provide Services under this Agreement is conditioned on receiving the funds from Ride Connection, and failure to provide the agreed funding is a material breach of the Agreement by Ride Connection.



## 18. Confidentiality

Subrecipient must comply, and require its employees and all other persons performing services for Subrecipient related to this Agreement to comply, with the following confidentiality provisions:

- A. **General.** Except as otherwise set forth in paragraphs below, Subrecipient must treat all information obtained by or through its performance under this Agreement as confidential information ("Confidential Information") and may not disclose it to any other person or use the Confidential Information in any manner except as necessary to properly discharge its obligations under this Agreement. But Subrecipient may disclose Confidential Information, after seven days' notice to Ride Connection, if disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator order. Subrecipient may also disclose Confidential Information to its employees, consultants, subcontractors and their employees, and others who need to know the content of the Confidential Information solely and exclusively for provision of the Services under this Agreement and who agree to maintain the confidentiality of the Confidential Information. If more stringent confidentiality requirements are imposed with relation to Confidential Information under the Legal Requirements, however, Subrecipient must comply with the more stringent standards.
- B. **Customer Information.** Except as required by other terms of this Agreement, all information obtained by Subrecipient about individuals they serve must be treated as Confidential Information and may not be divulged without the written consent of the individual or their legal guardian. Nothing prohibits the disclosure of information in summary, statistical, or other form, as long as it does not identify particular individuals and is otherwise permitted under this Agreement.
- C. **Media Disclosure.** Subrecipient may not provide information to the media regarding any individuals served under this Agreement without first consulting with and receiving approval from Ride Connection. Subrecipient must immediately notify Ride Connection when media contact occurs. Ride Connection will assist Subrecipient with an appropriate follow-up response for the media.

## 19. Certificate of Oregon Tax Law Compliance

By execution of this contract, Subrecipient certifies under penalty of perjury as provided in ORS 305.385(6) that it is, to the best of its knowledge, not in violation of any Oregon tax law. For purposes of this certification, "Oregon Tax Laws" are ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and sections 10 to 20, chapter 533, Oregon Laws 1981, as amended by chapter 16, Oregon Laws 1982 (first special session); the Elderly Rental Assistance Program under ORS 310.630 to 310.706; and any local taxes administered by the Oregon Department of Revenue under ORS 305.620.

## 20. 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.

## **21. Waiver**

No waiver or other consent under this Agreement will bind either party unless it is in writing and signed by the party to be bound. The waiver or consent will 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 will not constitute a waiver by that party of that or any other provision.

## **22. Severability**

If any term or provision of this Agreement is declared by the arbitrator or a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the parties' rights and obligations will be construed and enforced as though this Agreement did not contain the particular term or provision held to be invalid.

## **23. Remedies Cumulative**

The remedies exercisable by Ride Connection under this Agreement are cumulative and will in no way affect any other remedy available under the law to Ride Connection.

## **24. Merger Clause**

This Agreement constitutes the entire agreement between the parties and no waiver, consent, modification, or change of terms of this Agreement will bind either party unless it is in writing and signed by both parties. Such a waiver, consent, modification, or change, if made, will be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified in this Agreement regarding the parties' agreement. Subrecipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

## **25. Surviving Provisions**

Notwithstanding termination or expiration of this Agreement, the following provisions of this Agreement shall survive and continue to be in full force and effect: 2C (Audit); 8 (Indemnification); 18 (Confidential Information); 16 (Dispute Resolution); 20 Governing Law, 25(Surviving Provisions); Exhibit B 3B (Recordkeeping); and Exhibit F (Insurance).

## **26. Agreement Documents**

This Agreement consists of this Agreement, together with the following exhibits and exhibit attachments, which are incorporated by this reference. Subrecipient agrees to comply with all of the applicable requirements described in the exhibits and to ensure that all exhibits requiring signatures are executed by the appropriate parties and returned to Ride Connection.

- 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

**27. Entire Agreement/Authority**

- A. 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.
- B. 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.
- C. This Agreement may be executed in two or more counterparts (by facsimile or scanned email PDF), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- D. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

**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.**

**Clackamas County, by and through its  
Health, Housing and Human Services  
Department Social Services Division**

\_\_\_\_\_  
Signature

Julie Wilcke Pilmer  
Printed Name

Chief Executive Officer  
Title

\_\_\_\_\_  
Date

Commissioner: Tootie Smith, Chair  
Commissioner: Sonya Fischer  
Commissioner: Paul Savas  
Commissioner: Martha Schrader  
Commissioner: Mark Shull

**Signing on Behalf of the Board:**

By: \_\_\_\_\_  
Tootie Smith, Chair

**Approved to Form:**

By: \_\_\_\_\_  
County Counsel

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

## EXHIBIT A

Clackamas County Social Services

Contract No. 18945

### SCOPE OF WORK

July 1, 2021

#### **Project Title: In-District Dedicated Non-Emergency Medical Demand Response & Operating Assistance**

#### **Funding Source Definitions and Restrictions**

**Project STIF Funds Total for FY22: \$85,349**

The goods and/or services to be provided by Clackamas County Social Services include, but are not limited to the following:

A. Participate in Cost Savings Activities:

Clackamas County agrees to participate in coordination activities with Ride Connection and other Transportation providers Ride Connection contracts with to provide transportation services (“Service Partners”) in the network to meet the demand for service in a cost-effective manner.

B. Coordinate Customer Information, Referral, and Trip Scheduling Activities with the Ride Connection Service Center:

Service partners, who utilize the Ride Connection Service Center to coordinate trips, recognize that this service is currently being funded by dollars outside of this contract. Service Partners agree to work with Ride Connection to investigate opportunities and create solutions to recoup costs accrued for the service performed. Not currently applicable to the Clackamas County programs.

C. Establish and Maintain Customer Confidentiality:

Service Partners agree to maintain the confidentiality of all customer records exchanged with Ride Connection or accessed through Ride Connection coordination, scheduling and dispatch software. In the process of providing service, Service Partners agree to provide only the customer information that is necessary in order for the driver to provide the appropriate level of service for the trip being provided.

D. Provide Shared Capacity Trips:

With increased coordination among service partners, opportunities arise for providers to serve customers who reside in, or have trips originating or ending in areas outside the defined Service Area specified in this contract. Such activity is encouraged to reduce deadhead time on longer distance trips and maximize available capacity. STF Formula funds can be used to cover the costs associated with Shared Capacity Trips. If service boundaries need to be adjusted, partners will be asked to participate in the planning and decision making necessary to align service boundaries with need.

E. Maintain a sufficient number of qualified, approved paid and volunteer drivers and concierge and administrative hours to meet project goals.

## EXHIBIT A

Clackamas County Social Services

Contract No. 18945

- F. Recruit volunteer drivers to drive Ride Connection vehicles, or who are willing to provide proof of coverage if driving their own vehicles and who will meet the criteria necessary to allow them to drive for a Ride Connection program.
- G. Participate with Ride Connection, TriMet and other partners in the development of local, regional and agency specific service plans. Help recruit customers to actively participate in planning processes and service design.
- H. Increase coordination between Ride Connection, other services partners and TriMet to increase transportation options for older adults and people with disabilities. Share information on customers, trips, and destinations with Ride Connection, TriMet, and other partners and jointly plan new services or service changes.
- I. Coordinate outreach activities with Ride Connection. Perform marketing and outreach to community points that are key destinations for older adults and people with disabilities. Participate in Ride Connection sponsored events.
- J. Increase transportation options available to TriMet ADA eligible individuals who, because of their mobility impairment, geographic barriers, or trip destination, may be difficult for LIFT to serve or may require more personalized attention.
- K. Establish transportation options, for older adults or people with disabilities, in the community at large that encourage group trips to common community destinations such as shopping, recreation, senior centers, and nutrition sites.
- L. Encourage older adults and people with disabilities to become aware of and connect with available transportation and community-based services as an alternative to LIFT ADA paratransit services for some or all of their trips.
- M. Provide Ride Connection with back up documentation for billing line items upon request.
- N. Orient drivers to the agency's transportation program and ensure they comply with required training and are aware of other specialized training opportunities available through Ride Connection to maintain safety of operations.
- O. Attend regular coordination and training meetings to be conducted by Ride Connection.
- P. Allow TriMet, ODOT, or Ride Connection representatives to contact a random sample of clients for monitoring and service verification purposes. Clients will be contacted by mail or phone. Agencies will be given a copy of the questionnaire in advance of mailing.
- Q. Notify Ride Connection as soon as possible of unusual conditions that will affect the delivery of services.
- R. Implement Ride Connection's client donation policy to seek rider donations comparable to the TriMet LIFT fare, when appropriate.
- S. Cooperate in the mutually agreed upon submission of requests for additional public or private funds for program expansion and enhancement.
- T. Cooperate in transportation coordination efforts with other organizations such as churches, schools, businesses, and transportation providers.

**EXHIBIT A**

Clackamas County Social Services

Contract No. 18945

- U. Implement customer feedback (i.e. complaint, compliment) procedures for individuals using community-based transportation.
- V. Provide service throughout the contract term.

**Project Description:**

The Clackamas County dedicated non-emergency medical program provides medical appointment rides for older adults and people with disabilities who have limited transportation access. These riders are not on Medicaid services and have limited access to transportation for medical treatment. Services are door-to-door and are operated by paid drivers using wheelchair accessible vans and buses. Volunteers are also utilized as drivers and receive training on transporting patients. Volunteers are reimbursed mileage when providing their own vehicle. Taxis are utilized on a limited basis and only when a TRP driver/vehicle, paid or volunteer, isn't available. Service is door to door.

Transportation is provided Monday through Friday. Riders simply call the TRP to schedule rides. Information about the service is regularly distributed to Community Partners & Medical centers.

**Project Funding:**

Category			Total Project Cost
	FY22 Amount	FY23 Amount	
<b>Planning:</b>			
<b>Operating:</b>	\$85,349	\$87,909	\$173,258
<b>Capital:</b>			
<b>Administrative:</b>	0	0	0
<b>Other (describe):</b>			
<b>Total:</b>	<b>\$85,349</b>	<b>\$87,909</b>	<b>\$173,258</b>

**EXHIBIT A**

Clackamas County Social Services

Contract No. 18945

**Project Funding Sources:**

<b>Funding Source</b>	<b>FY22 Amount</b>	<b>FY23 Amount</b>	<b>Total Amount</b>
<b>Source 1: STF/STIF/5310 Funds Requested</b>	<b>\$85,349</b>	<b>\$87,909</b>	<b>\$173,258</b>
Source 2: STF/STIF Ride Conn. Pass-Through	\$587,149	\$604,762	\$1,191,911
Source 3: STF County Consortium	\$33,527	\$34,532	\$68,059
Source 4: 5310 County Consortium	\$38,973	\$38,973	\$77,946
Source 5: STIF County Consortium	\$43,900	\$45,217	\$89,117
Source 6: OAA Title III-B	\$150,000	\$150,000	\$300,000
Source 7: Medicaid for Waivered Non-Medical Transportation	\$33,450	\$33,450	\$66,900
Source 8: In District (TriMet)	\$206,669	\$206,669	\$413,338
Source 9: Sr. Ctr. Agency Other	\$25,000	\$25,000	\$50,000
Source 10: Rider Donations	\$20,000	\$20,500	\$40,500
<b>Total:</b>	<b>\$1,224,017</b>	<b>\$1,247,012</b>	<b>\$2,471,029</b>

**Project Measurables:**

<b>Measurable</b>	<b>FY22:</b>	<b>FY23:</b>	<b>Total</b>
<b>One way Rides</b>	N/A	N/A	N/A
<b>Senior/Person w/ Disability One way Rides</b>	3,300	3,500	6,800
<b>Total paid driver hours</b>	1,100	1,150	2,250
<b>Total volunteer driver hours (increase in hours over FY18 baseline)</b>	2,190	2,250	4,440
<b>Cost per trip</b>	26.01	25.12	25.57
<b># of individuals served</b>	400	425	825
<b>Vehicle Hours</b>	N/A	N/A	N/A
<b>Vehicle Miles</b>	43,500	43,700	87,200



## EXHIBIT B

Clackamas County Social Services  
Agreement #18945

### SPECIFIC AGREEMENT PROVISIONS

**Subrecipient shall comply with the provisions as set forth in this Exhibit. Where provided in Exhibit B, Subrecipient shall require each of its subrecipients or subcontractors to comply with the provisions as set forth in this Exhibit.**

1. **Representations and Warranties of Subrecipient.** Subrecipient represents and warrants to Ride Connection as follows:
  - A. **Organization and Authority.** Subrecipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the STIF Formula Funds. Subrecipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Subrecipient of this Agreement (1) have been duly authorized by all necessary action of Subrecipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Subrecipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is a party or by which Subrecipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subrecipient of this Agreement.
  - B. **Binding Obligation.** This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid and binding obligation of Subrecipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
  - C. **No Solicitation.** Subrecipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to sub agreements, except as permitted by applicable law. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
  - D. **No Debarment.** Neither Subrecipient nor its principals is presently debarred, suspended, or voluntarily excluded from this federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Subrecipient agrees to notify Ride Connection immediately if it is debarred, suspended, or otherwise excluded from this federally assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.
  - E. **Policies and Procedures.** Subrecipient represents and warrants that it has all of the policies and procedures in place to ensure compliance with OAR 732, Divisions 40 and 42, and to achieve the goals and outcomes specified in the Agreement, including but not limited to program and project management, financial management, operations management, procurement, use and maintenance of equipment, records retention, compliance with state and federal civil rights laws, compliance with the Americans with Disabilities Act (ADA),

## EXHIBIT B

Clackamas County Social Services  
Agreement #18945

charter and school bus, and safety and asset management.

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

### 2. Records Maintenance and Access; Audit.

- A. **Retention of Records.** Subrecipient shall retain and keep and require its subrecipients and subcontractors to retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the STIF Formula Funds, or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the expiration date of this Agreement. If there are unresolved audit questions at the end of the six-year period, Subrecipient, its subrecipients and subcontractors shall retain the records until the questions are resolved.
- B. **Expense Records. Subrecipient shall document the expense of all funds disbursed by Ride Connection under this Agreement.** Subrecipient shall create and maintain all expense records in accordance with generally accepted accounting principles and in sufficient detail to permit Ride Connection to verify how the funds were expended.
- C. **Audit Requirements.** To the fullest extent permitted by law, Subrecipient shall save, protect and hold harmless Ride Connection from the cost of any audits or special investigations performed with respect to the STIF Formula Funds expended under this Agreement as a result of Subrecipient's acts. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this Agreement. This section does not apply to regular audit and compliance reviews that are conducted pursuant to this Agreement.

### 3. Subrecipient Sub agreement and Procurement

- A. **Sub agreements.** Subrecipient may not enter into agreements with contractors or subcontractors (collectively, "sub agreements") for performance of the Project unless prior approval has been obtained in writing.
  - i. All sub agreements must be in writing executed by Subrecipient and must incorporate and pass through all of the applicable requirements and Exhibits of this Agreement to the other party or parties to the sub agreement(s). Use of a sub agreement does not relieve Subrecipient of its responsibilities under this Agreement. Subrecipient agrees to provide Ride Connection with a copy of any signed sub agreement upon request by Ride Connection. Any substantial breach of a term or condition of a sub agreement relating to funds covered by this Agreement must be reported by Subrecipient to Ride Connection within ten (10) days of its being discovered.
- B. **Subrecipient's subagreement(s) shall require the other party to such subagreement(s) to indemnify, defend, save and hold harmless Ride Connection, Clackamas County, TriMet, the State of Oregon, and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including reasonable attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Subrecipient's sub agreement or any of such party's officers, agents, employees or subcontractors ("Claims"). The sub agreement**

## EXHIBIT B

Clackamas County Social Services

Agreement #18945

**shall specifically state that it is the specific intention that Ride Connection shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of Ride Connection, be indemnified by the other party to Subrecipient's sub agreement(s) from and against any and all Claims.**

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

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

- C. **Procurements.** Subrecipient will make purchases of any equipment, materials, or services for the Project in compliance with all applicable procurement laws and policies.

#### 4. Termination

- A. **Termination by Ride Connection.** Ride Connection may terminate or suspend this Agreement, in whole or part, effective upon delivery of written notice to Subrecipient, or at such later date as may be established by Ride Connection in such written notice, under any of the following conditions, but not limited to those conditions:

- i. Subrecipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Subrecipient is, for any reason, rendered improbable, impossible, or illegal; or
- ii. Ride Connection fails to receive funding, appropriations, limitations or other expense authority sufficient to allow Ride Connection, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if Ride Connection determines to terminate or suspend for its own convenience; or
- iii. Federal or State laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
- iv. The Project would not produce results commensurate with the further expense of funds; or
- v. Subrecipient takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.

- B. **Termination by Subrecipient.** Subrecipient may terminate this Agreement effective upon delivery of written notice of termination to Ride Connection, or at such later date as may be established by Subrecipient in such written notice, if:

## EXHIBIT B

Clackamas County Social Services  
Agreement #18945

- i. The requisite local funding to continue the Project becomes unavailable to Subrecipient; or
- ii. Federal or State laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.

C. **Effect of Termination.** The expiration or termination of this Agreement or any Project, for any reason, shall not release Subrecipient from any obligation or liability to Ride Connection, any requirement or obligation that:

- i. Has already accrued hereunder;
- ii. Comes into effect due to the expiration or termination of the Agreement; or
- iii. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement or any Project as provided in this Section, Subrecipient shall promptly identify all unexpended funds and return all unexpended funds to Ride Connection. Unexpended funds are those funds received by Subrecipient under this Agreement that (i) have not been spent or expended to pay the costs or expenses of the Project or Projects; and (ii) are not required to pay costs or expenses of the terminated Project(s) that will become due and payable as a result of the termination of the Project(s).

Subrecipient's identification and calculation of unexpended funds in this Section is Subject to the requirements of this Agreement.

### 5. General Provisions

A. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against Ride Connection or Subrecipient with respect to which the other party may have liability, the notified party must promptly notify the other party in writing of the Third Party Claim and deliver to the other party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a party of the notice and copies required in this paragraph and meaningful opportunity for the party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that party's liability with respect to the Third Party Claim.

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

## EXHIBIT B

Clackamas County Social Services  
Agreement #18945

capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if Ride Connection had sole liability in the proceeding.

With respect to a Third Party Claim for which Subrecipient is jointly liable with Ride Connection (or would be if joined in the Third Party Claim), Subrecipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Ride Connection in such proportion as is appropriate to reflect the relative fault of Subrecipient on the one hand and of Ride Connection on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Subrecipient on the one hand and of Ride Connection on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. If Subrecipient is a public body, Subrecipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, if Subrecipient had sole liability in the proceeding.

- B. **Duplicate Payment.** Subrecipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America, Ride Connection or any other party, organization or individual.
- C. **No Third Party Beneficiaries.** Ride Connection and Subrecipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.
- D. **Notices.** Except as otherwise expressly provided in this Agreement, 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 Subrecipient's Project Manager or Ride Connection's Project Manager at the address or number set forth in Section **13 Communications** of this Agreement, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given three days after the date of mailing
- E. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Ride Connection and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Multnomah

## EXHIBIT B

Clackamas County Social Services  
Agreement #18945

County in the State of Oregon. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT, WAIVES ANY OBJECTION TO VENUE, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM.

- F. **Insurance; Workers' Compensation.** All employers, including Subrecipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Subrecipient shall ensure that each of its contractor(s) and subcontractor(s) complies with these requirements. Subrecipient shall include in any subcontracts to perform services pursuant to this Agreement a provision requiring a subcontractor to comply with this Subsection F, and that failure to do so is a material breach of the subcontract with Subrecipient.
- G. **Independent Contractor.** Subrecipient shall perform the Project as an independent contractor and not as an agent or employee of Ride Connection. Subrecipient shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to workers compensation, unemployment taxes and state and federal income tax withholdings. Subrecipient has no right or authority to incur or create any obligation for or legally bind Ride Connection in any way. Ride Connection cannot and will not control the means or manner by which Subrecipient performs the Project, except as specifically set forth in this Agreement. Subrecipient is responsible for determining the appropriate means and manner of performing the Project. Subrecipient acknowledges and agrees that Subrecipient, its officers, directors, employees, subcontractors or volunteers are not an "officer," "employee," or "agent" of Ride Connection, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary. Neither Subrecipient, nor its directors, officers, employees, subcontractors, or volunteers shall hold themselves out either explicitly or implicitly as officers, employees, or agents of Ride Connection for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise, or joint venture between the parties.

## EXHIBIT C

Clackamas County Social Services  
Agreement #18945

### **Summary of Federal Terms and Conditions and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements (“Certifications and Assurances”) and Federal Transit Administration Master Agreement (“Master Agreement”)**

Provider and Provider’s Subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at <https://www.transit.dot.gov/grantee-resources/certifications-and-assurances/fy2021-annual-list-certifications-and-assurances>. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Provider must submit to Ride Connection on or before July 1 of each year during the term of this Agreement an executed copy of the Certifications and Assurances by printing the form available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>, completing the form, and sending it to Ride Connection.

Provider shall comply with the following provisions and require in its subagreements that the subcontractors comply with each of the following provisions as if the subcontractors were Provider:

Provider agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from Ride Connection or by calling the State at (503) 986-3300, or at <http://fta.dot.gov/documents/21-Master.pdf>. Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and three grant Funds being disbursed to Provider under this Agreement:

1. Provider shall comply with Title VI of the Civil Rights Act of 1964 and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Provider shall exclude no person on the grounds of race, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Provider will report to Ride Connection on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Provider shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.

## EXHIBIT C

Clackamas County Social Services  
Agreement #18945

3. Provider shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Provider shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Provider's DBE program, if applicable, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to Ride Connection of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).



## EXHIBIT D

Clackamas County Social Services  
Agreement # 18945

### NONDISCRIMINATION CERTIFICATE

*Subrecipient certifies compliance with the following nondiscrimination requirements:*

#### **Nondiscrimination**

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Subrecipient assures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Subrecipient receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Subrecipient retains ownership or possession of the project property, whichever is longer, the Subrecipient assures that:

- (1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Subrecipient assures that it will submit the required information pertaining to its compliance with these provisions.
- (3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d and 49 CFR part 21 to other parties involved therein including any Subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.
- (4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for

## EXHIBIT D

Clackamas County Social Services  
Agreement # 18945

which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.

- (5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance.
- (6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21.

Subrecipient acknowledges that it is subject to the requirements of FTA Circular 4702.1A "*Title VI and Title VI-Dependent Guidelines for FTA Recipients*" as a Subrecipient of federal funds under this Agreement. Further, Subrecipient shall provide Title VI compliance information and measures as may be determined by Ride Connection pursuant to the Circular.

### **Assurance of Nondiscrimination on the Basis of Disability**

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the Subrecipient assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Subrecipient assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

## EXHIBIT E

Clackamas County Social Services  
Agreement # 18945

### Reporting Requirements

Reports are due to the Service Data Specialist at Ride Connection by the 20th of each month.

Reports:

- Service Summary Reports
  - Trip Data
  - Financial Data (must reflect full monthly transportation program costs)
- Vehicle Operations Report and all vehicle invoices
- Unduplicated Age and Ethnicity Report

Required reporting items include:

- Trips by Trip Purpose
- Mileage
- Turndowns
- Volunteer and Paid Driver Hours
- Admin and Escort non-driver Volunteer hours
- Transportation Program Expenses
- Donations
- Funds received from other Agencies to support program (Agency Other)
- Unduplicated Riders (Counts by Age and Ethnicity)
- Vehicle Maintenance invoices (reimbursable and non-reimbursable amounts)
- Any other required fields requested to meet reporting requirements

Copies of the above stated forms must be created per each Provider's specific program requirements and will be sent to Providers electronically. Providers should always utilize the most current reporting forms sent by Ride Connection. All forms should be submitted electronically, unless otherwise instructed by Ride Connection.

Ride Connection must be notified on or before the 20th of each month if a delay in report submission is anticipated.

Reports and questions regarding reporting requirements should be directed to the Service Data Specialist:

Fax (503) 528-1755

[partner\\_reporting@rideconnection.org](mailto:partner_reporting@rideconnection.org)

## EXHIBIT F

Clackamas County Social Services  
Agreement # 18945

### INSURANCE REQUIREMENTS

#### General

Subrecipient shall obtain and provide, and require in its first tier sub agreements with entities that are not units of local government as defined in ORS 190.003, if any, that the subcontractor obtain and provide the same insurance applicable to Subrecipient for subcontractor's performance under is sub agreement:

- i. Insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance of this Agreement and of any sub agreement commences, and
- ii. Maintain the insurance in full force throughout the duration of this Agreement and sub agreement. Proof of sufficient self-insurance shall satisfy this requirement.

The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Ride Connection. Subrecipient shall not commence work under this Agreement, and shall not authorize work to begin under a sub agreement until the insurance is in full force. Thereafter, Subrecipient shall monitor continued compliance with the insurance requirements in its sub agreements on an annual or more frequent basis. Subrecipient shall incorporate appropriate provisions in the sub agreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Subrecipient permit work under a sub agreement when Subrecipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a sub agreement in which the Subrecipient is a Party.

Subrecipient shall comply with any requirements of Ride Connection with respect to Subrecipient's compliance with these insurance requirements, including but not limited to Ride Connection issued stop work orders (or the equivalent) until the insurance is in full force, or terminating the Contract as permitted by this Contract, or pursuing legal action to enforce the insurance requirements.

While this Agreement is in effect, Subrecipient agrees that it shall maintain in effect the insurance coverage set forth below, as well as to require any subcontractors it uses to agree to comply with the insurance requirements provided below. Prior to commencement of work under this Agreement, Subrecipient shall furnish to Ride Connection a certificate(s) of insurance executed by a duly authorized representative of each insurer showing compliance with the insurance requirements below. Failure of Ride Connection to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Subrecipient's obligation to require such insurance from its subcontractors.

Subrecipient, as well as all of its subcontractors shall be responsible for payment of all respective premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below, and shall be from carriers acceptable to Ride Connection:

## EXHIBIT F

Clackamas County Social Services  
Agreement # 18945

### Types and Amounts

- I. **WORKERS COMPENSATION.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2).

The employer's liability limit shall not be less than \$500,000 each accident for bodily injury by an accident and \$500,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.

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

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

Insurance policy shall include Sexual Abuse/Molestation coverage with limits no less than \$500,000 per occurrence/aggregate.

- III. **AUTOMOBILE LIABILITY:** Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by Ride Connection:

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence). Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).

### Additional Insured

The Commercial General Liability Insurance and Automobile Liability insurance must include State and Ride Connection, and their respective officers, employees and agents as Additional Insureds but only with respect to the Subrecipient's activities to be performed under the Agreement and, with respect to subcontractors, activities to be performed under their sub agreements. Coverage must be primary and non-contributory with any other insurance and self-insurance.

The insurance required under this Paragraph shall include Ride Connection, TriMet, the State of Oregon, the Federal Transit Administration, and each of their respective directors, officers, agents, elected officials, and employees as additional insureds with respect to work or operations connected with the Agreement.

## EXHIBIT F

Clackamas County Social Services  
Agreement # 18945

### **"Tail" Coverage**

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Subrecipient and the subcontractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Agreement for Subrecipient, and the effective date of the sub agreement for subcontractors, for a minimum of 24 months following the later of:

- i. The Subrecipient's completion and Ride Connection's acceptance of all services required under this Agreement, and the subcontractors completion and Subrecipient's acceptance of all services required under the sub agreement or,
- ii. The expiration of all warranty periods provided under this Agreement with respect to Subrecipient and the sub agreement with respect to the subcontractor.

Notwithstanding the foregoing 24-month requirement, if the Subrecipient or subcontractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the Subrecipient or subcontractor may request and Ride Connection may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If Ride Connection approval is granted, the Subrecipient or subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

### **Notice of Cancellation or Change**

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

### **Certificate(s) of Insurance**

Subrecipient shall submit to Ride Connection a certificate(s) of insurance for all required insurance before the commencement of performance of services. The certificate(s) or an attached endorsement must specify:

- i. All entities and individuals who are endorsed on the policy as Additional Insured and
- ii. For insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

November 4, 2021

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement 171559-0 with The State of Oregon, Department of Human Services, Aging and People with Disabilities Division for COVID Pandemic Response for Clackamas County Residents. Maximum Agreement Amount is \$55,842  
No County General Funds

<b>Purpose/Outcomes</b>	To provide assessment and support for persons age 60 and over impacted by COVID pandemic in Clackamas County
<b>Dollar Amount and Fiscal Impact</b>	The total agreement is for \$55,842 Funded by Federal OAA Funds
<b>Funding Source</b>	Federal Older American Act funds. No match is required.
<b>Duration</b>	Effective July 1, 2021 and terminates on September 30,2022
<b>Previous Board Action</b>	Funding was approved on 7-9-20 by BCC as Amendment #1 to Agreement #106453 with Oregon DHS.
<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>Counsel Review</b>	1. Date of Counsel review: 10/11/2021 2. Initials of County Counsel performing review: AN
<b>Procurement Review</b>	1. Was this time processed through Procurement? No 2. In no, provide brief explanation: This is an Intergovernmental Revenue Grant agreement. Not subject to Procurement Review.
<b>Contact Person</b>	Brenda Durbin, Director, Social Services Division 503-655-8641
<b>Contract No.</b>	H3S#10402

**BACKGROUND:**

The Social Services Division of the Health, Housing and Human Services request approval of the Subrecipient Intergovernmental Grant Agreement #171559-0 with the State of Oregon, Dept. of Human Services, Aging and People with Disabilities, Community Services and Supports to provide COVID Pandemic Response for Clackamas County residents. This agreement provides grant funding for the Social Services Division to provide assessment and support for persons over 60 who have been impacted by the COVID pandemic. This program focuses on providing technology access to minimize the negative impacts of isolation during this time when senior services are curtailed.

Social Services Division is the designated Area Agency on Aging for the Clackamas Planning and Service area designated by the State of Oregon, Department of Human Services, Aging and People with Disabilities Division, Community Services and Supports. This agreement reflects funds awarded to the County for COVID pandemic services and was delayed due to State and Federal budget processes. The agreement was reviewed and approved by County Council on October 11, 2021.

No match is required and no County General Funds are used to support these services.

**RECOMMENDATION:**

Staff recommends the Board approval of this agreement and that Tootie Smith, Board Chair; or her designee, be authorized to sign on behalf of Clackamas County.

Respectfully submitted,

*Mary Rumbaugh*

Rodney A. Cook, Director  
Health Housing & Human Services





**Grant Agreement Number 171559**

**STATE OF OREGON  
INTERGOVERNMENTAL GRANT AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to [dhs-oha.publicationrequest@state.or.us](mailto:dhs-oha.publicationrequest@state.or.us) or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Agreement is between the State of Oregon, acting by and through its Oregon Department of Human Services, hereinafter referred to as “ODHS,” and

**Clackamas County  
d/b/a  
Clackamas County Social Services Division CCSS  
DBA name: (if applicable)  
Contact: Brenda Durbin  
PO Box 2950, 2051 Kaen Road,  
Oregon City, OR 97045  
Phone:(503)-655-8640  
Fax:(503)-655-8889  
Email:brendadur@clackamas.us**

hereinafter referred to as “**Recipient.**”

The Program to be supported under this Agreement relates principally to the ODHS’

**Aging and People with Disabilities  
Community Services and Supports  
500 Summer Street NE, E-12  
Salem, OR 97301  
Agreement Administrator: Ann McQueen or delegate  
Telephone: (503) 930-7293  
E-mail address: ann.e.mcqueen@dhs.oha.state.or.us**

1. **Effective Date and Duration.** Agreement termination or expiration shall not extinguish or prejudice ODHS' right to enforce this Agreement with respect to any default by Recipient that has not been cured. This Agreement shall become effective on **July 1, 2021** regardless of when signed and, when required, approved by Department of Justice. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **September 30, 2022**. Agreement termination or expiration shall not extinguish or prejudice DHS' right to enforce this Agreement with respect to any default by Recipient that has not been cured.

2. **Agreement Documents.**

a. This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

- (1) Exhibit A, Part 1: Program Description
- (2) Exhibit A, Part 2: Disbursement and Financial Reporting
- (3) Exhibit A, Part 3: Special Provisions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements
- (6) Exhibit D: Federal Terms and Conditions

There are no other Agreement documents unless specifically referenced and incorporated in this Agreement.

b. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The documents comprising this Agreement shall be in the following descending order of precedence: this Agreement less all exhibits, Exhibits D, B, A, and C.

3. **Grant Disbursement Generally.** The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is **\$55,842.00**. ODHS will not disburse grant to Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by all parties. ODHS will disburse the grant to Recipient as described in Exhibit A.

4. **Contractor or Subrecipient Determination.** In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.104, ODHS' determination is that:

Recipient is a subrecipient  Recipient is a contractor  Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: 93.048

**5. Recipient Data and Certification.**

**a. Recipient Information.** Recipient shall provide the information set forth below.

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION**

**Recipient Name (exactly as filed with the IRS):** \_\_\_\_\_

Street address: \_\_\_\_\_

City, state, zip code: \_\_\_\_\_

Email address: \_\_\_\_\_

Telephone: (     ) \_\_\_\_\_ Facsimile: (     ) \_\_\_\_\_

**Recipient Proof of Insurance.** Recipient shall provide the following information upon submission of the signed Agreement. All insurance listed herein must be in effect prior to Agreement execution.

Workers' Compensation Insurance Company: \_\_\_\_\_

Policy #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

**b. Certification.** Without limiting the generality of the foregoing, by signature on this Agreement, the Recipient hereby certifies under penalty of perjury that:

- (1) Recipient acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the Recipient and that pertains to this Agreement or to the project for which the grant activities are being performed. Recipient certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Recipient further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Recipient;
- (2) The information shown in this Section 5a. "Recipient Information", is Recipient's true, accurate and correct information;
- (3) To the best of the undersigned's knowledge, Recipient has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (4) Recipient and Recipient's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of

Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;

- (5) Recipient is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" found at: <https://www.sam.gov/SAM>;
- (6) Recipient is not subject to backup withholding because:
  - (a) Recipient is exempt from backup withholding;
  - (b) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends; or
  - (c) The IRS has notified Recipient that Recipient is no longer subject to backup withholding; and
- (7) Recipient's Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided is true and accurate. If this information changes, Recipient is required to provide ODHS with the new FEIN or SSN within 10 days.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

**RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT RECIPIENT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

6. **Signatures.** This Agreement and any subsequent amendments may be executed in several counterparts, 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 the Agreement and any amendments so executed shall constitute an original.

**Clackamas County**

**By:**

\_\_\_\_\_  
Authorized Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**State of Oregon acting by and through its Oregon Department of Human Services**

**By:**

\_\_\_\_\_  
Authorized Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Approved for Legal Sufficiency:**

Not required per OAR 137-045-0030(1)(a)

Department of Justice

\_\_\_\_\_  
Date

**EXHIBIT A**  
**Part 1**  
**Program Description**

The Agreement is to support Grant Activities that have been carried out by Recipient specifically related to all Activities that are specifically related to mitigation, support and treatment Activities related to Rapid Assessment Processes for COVID19 Pandemic Response.

**1. Grant Activities** to be provided through this Grant Agreement include Rapid Assessment Process COVID-19 Pandemic Response through existing Recipient Programs that will specifically focus on this Assessment Process COVID19 Pandemic Response.

a. The specific Grant Activities for Assessment services described in this section provide for a focused response to COVID-19 Pandemic with the coordination of No Wrong Door and Aging and Disability Resource Connection (ADRC) services. Grant Program Activities to be Carried out as follows:

1. Conduct a Rapid Assessment of ADRC workforce, population, and services specific to COVID-19 response, to be based on guidance provided by the Administration for Community Living (ACL) and the Community Services and Supports Unit (CSSU). The rapid assessment should be completed and submitted via SurveyMonkey no later than final date for Grant Activities as stated in Section 1 of this Grant Agreement.
2. Use Rapid Assessment results to prioritize the use of Agreement funds to conduct response activities from the list of COVID-19 Potential Response Activities below, to be carried out based on the ODHS approved budget and project plan for the Grant period stated in Section 1.
3. Track Agreement expenditures based on guidance provided by ACL and the CSSU. Information and referral, options counseling, and care transitions activities should be recorded in GetCare according to established ADRC standards;
4. Track and report on completed tasks and consumers served throughout Agreement period per requirements established by ACL.
5. Submit CSSU required quarterly progress reports and final report via survermonkey link provided by CSSU.
6. Submit semi-annual reports and final report per requirements established by Administration for Community Living (ACL).
7. Submit invoice quarterly using template provided. ( Attachment 1)

b. Rapid Assessment Process Guidance:

Per ACL guidance, Agency Rapid Assessment Process may include the use of existing data or completing additional information gathering to assess some of the following:

1. Assessment of current workloads or capacity and challenges as part of working remotely at the local level in providing ADRC services to individuals and families.

2. Assessment of the most pressing population needs, services that have been discontinued, or services where demand has increased dramatically due to COVID-19, and other areas where capacity is smaller than demand.
3. Assessment of existing waitlists, if any, and review data reported on types of referrals to identify any increases in types of services requested
4. Assessment of potential ways to improve data tracking and intake to specifically count COVID-19 related inquiries and referral types
5. Assessment of populations most at risk of COVID-19 who are seeking transitional support from hospital-to-home and nursing home-to-home to release additional pressure on hospitals and nursing homes;
6. Assessment of populations most at risk of social isolation and needed outreach plans; and
7. Assessment of existing data on people who are now homebound due to COVID-19 and develop an outreach plan to identify need.

c. COVID-19 Potential Response Activities

ADRC may use Agreement funds to conduct some or all of the following activities:

1. Virtual Management of ADRC access functions. Enhancement and infrastructure development of ADRC access functions, e-services to overcome access challenges resulting from COVID-19.
2. Mitigation of social isolation through proactive Information and Referral (I&R) and options counseling activities and follow-ups, including:
  - a) Increase I&R and options counseling phone processes by supporting phone and web-based capacity to respond to increased demands as a result of COVID-19;
  - b) Implement follow-up protocols with I&R staff and options counselors to ensure that services are activated and are responsive throughout COVID-19 crises;
  - c) Develop and implement social isolation screenings and protocols used by I&R specialists and options counselors.
  - d) Utilize and/or expand I&R and options counseling workforce to conduct social calls, text messaging or video chat to homebound individual.
  - e) Ensure statewide I&R access system is able to identify and collaborate with community partners able to provide essential services to meet critical needs of ADRC consumers. Some examples include coordination with local restaurants and/or online/mobile food order and delivery services and local transportation services to deliver meals, food and medications to older adults, people with disabilities and their caregivers.
3. Support technology needs of ADRC consumers by:
  - a) Collaborating with and providing referrals to the State Assistive

Technology Act program, Access Technologies Inc. for assistive technology assessments, technology devices, and training for older adults, people with disabilities, caregivers and clinicians to understand how to use telehealth technologies to provide and receive services and participate in technology strategies to increase social engagement and social connectedness while reducing social isolation.

- b) Collaborating with and providing referrals to the Public Utility Commission (PUC) to help consumers who qualify access their Telecommunications Devices Access Program (TDAP) and Lifeline Program.
- c) Providing consumers with a telecommunications device on loan and/or funding support for cellular or internet connectivity for consumers. Services provided by programs like the state AT program and the PUC should be explored prior to using funds for these activities. The most cost effective option that meets the consumer's needs should be selected. See additional guidance below.
  - 1. Collaborate with Longterm Care Ombudsman office to help address needs of consumers residing in longterm care facilities.
  - 2. Innovation of and Development of enhancements to ADRC services or service structures
  - 3. Marketing and outreach of ADRC services to support consumers affected by COVID-19
  - 4. For ADRCs with established evidence-based Coleman Care Transitions programs in place, funds could be used for the deployment of Care Transitions services for targeted populations most at risk of COVID-19 who are seeking transitional support from hospital-to-home and nursing home-to-home.
  - 5. COVID-19 vaccine access support activities, pre-approved by the CSSU.

e. **Guidance for Purchases under this Agreement:**

**Purchase of technology/devices and providing technical assistance to consumers on the use of technology/devices.**

- 1. ADRC should collaborate with existing programs like the state Assistive Technology ( AT) program prior to using funds to purchase technology/devices, AT services, and/or consumer support for using technology and devices. If funds are used to purchase these items, ADRC should research multiple purchasing options including bulk purchasing through the Department of Human Services in order to secure the most cost-effective option. Additionally, policies and procedures governing the provision and usage of such technologies and devices should be developed and should consider issues such as whether they will be provided on loan, or permanently; the criteria for



provision; what type of assessment will be made to determine the conditions for provision and the frequency for reassessment; whether or not usage by individuals in the home who are younger than age 60 is a permissible use; how will Information Technology (IT) support be provided, at what frequency, and total hours provided per consumer; how will upgrades to software be provided; who is responsible if the device is broken, lost or stolen; will it be used only for the duration of the public health emergency and then retrieved; etc.

## **2. Purchase of cellular or internet access.**

ADRC should collaborate with existing programs like the state AT program and the PUC prior to using funds to purchase these items. If funds are used to purchase these items, policies and procedures governing the provision and usage of cellular or internet access should be developed and should consider issues such as whether they will be provided on a fixed short term or longer basis; the criteria for provision; what type of assessment will be made to determine the conditions for provision and the frequency for reassessment; whether or not usage by individuals in the home who are younger than age 60 is a permissible use; how will IT support be provided; who is responsible if any limits on usage are exceeded; will it be provided only for the duration of the public health emergency; etc.

## **2. Desired outcomes**

- a.** The Grant Activities to be carried out will provide maximum support for COVID19 Pandemic Response with positive outcomes to address the increasing outbreak of COVID19 through assessments and other interventions described in this Grant.
- b.** The Rapid Assessment Process COVID-19 Pandemic Response will provide relief and mitigation of the COVID19 affective ODHS clients and consumers that patriciate in these Grant activities.

## **3. Reporting Requirements**

Grant Recipient Activities carried out will be provided in a standard format to ODHS Contract Administrator including specific reporting items and deadlines for reporting as agreed upon between the parties.

## **4. Performance expectations**

Grant Recipient Activities shall be carried out through the existing Programs and Grant Activities provided by the Recipient focused to meet the outcomes described in Section 2. The Rapid Assessment Process COVID-19 Pandemic Response Grant Activities to be carried out through existing program operations. .

## **5. Grant milestones**

Milestones related to Grant Recipient Activities are based on the term of this Grant Agreement in that all activities will have been completed by the dates described in Section 1 of this Agreement.

## **EXHIBIT A**

### **Part 2 Disbursement and Financial Reporting**

#### **1. Expenditure of Grant Funds.**

- a. Grant Recipient related expenditures will be paid by ODHS for only Rapid Assessment Process COVID-19 Pandemic Response Grant Activities that have been carried out by the Recipient.
- b. Grant Recipient will provide a report summary and invoice for all Grant Activities completed along with ODHS client consumers that have been supported through this Grant. ‘
- c. ODHS will pay to the Grant Recipient a maximum not-to-exceed amount as specified in Section 3. “Consideration” of this Agreement, to be paid to the Recipient in accordance with the reasonable necessary and allocable expenses incurred by Grant Recipient .

## EXHIBIT A

### Part 3 Special Provisions

1. **HIPAA Compliance.** As a Business Associate of a Covered Entity, ODHS must comply with the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), and ODHS must also comply with OAR 943-014-0400 through OAR 943-014-0465. Recipient is a Business Associate of ODHS and therefore must comply with OAR 943-014-0400 through OAR 943-014-0465 and the Business Associate requirements set forth in 45 CFR 164.502 and 164.504.

Recipient shall be liable to ODHS for any and all costs incurred by ODHS, including, but not limited to, costs of issuing any notices required by HIPAA, HITECH or any other applicable law and damages to third parties as a result of Recipient's Breach of Unsecured Protected Health Information.

- a. **Consultation and Testing.** If Recipient reasonably believes that the Recipient's or ODHS' data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Recipient shall promptly consult the ODHS Information Security Office. Recipient or ODHS may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the ODHS testing schedule.
- b. **Data Transactions Systems.** If Recipient intends to exchange electronic data transactions with ODHS or the Oregon Health Authority (OHA) in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, Recipient shall execute an Electronic Data Interchange (EDI) Trading Partner Agreement and shall comply with EDI Rules set forth in OAR 943-120-0110 through 943-120-0160.

2. **Major Disaster Declaration number DR4499OR Agreement Provisions.**

DHS is acquiring the services under this amended Agreement for the purpose of responding to the state of emergency declared by the Governor on Saturday, March 7, 2020 and pursuant to the Major Disaster Declaration number DR4499OR as a direct result of the COVID-19. DHS intends to request reimbursement from the federal government, including but not limited to FEMA and from the resources provided by the Families First Coronavirus Response Act, for the costs, and Recipient shall provide to DHS timely reports that provide enough detail to DHS' reasonable satisfaction, in order to obtain federal reimbursement.

This Agreement is subject to the additional federal terms and conditions located at:

<https://www.oregon.gov/das/Procurement/Documents/COVIDFederalProvisions.pdf> as may be applicable to this Agreement.

## EXHIBIT B

### Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, “Claim”) between ODHS or any other agency or department of the State of Oregon, or both, and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion 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 State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. This Section shall survive expiration or termination of this Agreement.
2. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Recipient and this Agreement. This Section shall survive expiration or termination of this Agreement.
3. **Independent Parties.** The parties agree and acknowledge that their relationship is that of independent parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Grant Funds; Payments.**
  - a. Recipient is not entitled to compensation under this Agreement by any other agency or department of the State of Oregon. Recipient understands and agrees that ODHS’ participation in this Agreement is contingent on ODHS receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow ODHS, in the exercise of its reasonable administrative discretion, to participate in this Agreement.
  - b. **Disbursement Method.** Disbursements under this Agreement will be made by Electronic Funds Transfer (EFT), unless otherwise mutually agreed, and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other ODHS Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, Recipient must provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. Recipient must maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all disbursements under this Agreement. Recipient must provide this designation and information on a form

provided by ODHS. In the event that EFT information changes or the Recipient elects to designate a different financial institution for the receipt of any payment made using EFT procedures, Recipient will provide the changed information or designation to ODHS on an ODHS-approved form.

- 5. Recovery of Overpayments.** Recovery of Overpayments. If billings under this Agreement, or under any other Agreement between Recipient and ODHS, result in payments to Recipient to which Recipient is not entitled, ODHS, after giving to Recipient written notification and an opportunity to object, may withhold from payments due to Recipient such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if Recipient objects to the withholding or the amount proposed to be withheld, Recipient shall notify ODHS that it wishes to engage in dispute resolution in accordance with Section 18 of this Agreement.
- 6. Reserved.**
- 7. Contribution.**

  - a.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (“Third Party Claim”) against a liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party’s liability with respect to the Third Party Claim.
  - b.** With respect to a Third Party Claim for which the State is jointly liable with the Recipient (or would be if joined in the Third Party Claim ), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the Recipient on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
  - c.** With respect to a Third Party Claim for which the Recipient is jointly liable with the State (or would be if joined in the Third Party Claim), the Recipient shall

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

This Section shall survive expiration or termination of this Agreement.

- 8. Indemnification by Subcontractors.** Recipient shall take all reasonable steps to require its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims. This Section shall survive expiration or termination of this Agreement.
- 9. Recipient Default.** Recipient shall be in default under this Agreement upon the occurrence of any of the following events:

  - a.** Recipient fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
  - b.** Any representation, warranty or statement made by Recipient herein or in any documents or reports relied upon by ODHS to measure the delivery of Work, the expenditure of payments or the performance by Recipient is untrue in any material respect when made;
  - c.** Recipient (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing

to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or

- d. A proceeding or case is commenced, without the application or consent of Recipient, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Recipient, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of Recipient or of all or any substantial part of its assets, or (3) similar relief in respect to Recipient under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Recipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

**10. ODHS Default.** ODHS shall be in default under this Agreement upon the occurrence of any of the following events:

- a. ODHS fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein; or
- b. Any representation, warranty or statement made by ODHS herein or in any documents or reports relied upon by Recipient to measure performance by ODHS is untrue in any material respect when made.

**11. Termination.**

**a. Recipient Termination.** Recipient may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to ODHS;
- (2) Upon 45 days advance written notice to ODHS, if Recipient does not obtain funding, appropriations and other expenditure authorizations from Recipient's governing body, federal, state or other sources sufficient to permit Recipient to satisfy its performance obligations under this Agreement, as determined by Recipient in the reasonable exercise of its administrative discretion;
- (3) Upon 30 days advance written notice to ODHS, if ODHS is in default under this Agreement and such default remains uncured at the end of said 30-day period or such longer period, if any, as Recipient may specify in the notice; or
- (4) Immediately upon written notice to ODHS, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that Recipient no longer has the authority to meet its obligations under this Agreement.

**b. ODHS Termination.** ODHS may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to Recipient;
- (2) Upon 45 days advance written notice to Recipient, if ODHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of ODHS under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, ODHS may terminate this Agreement, immediately upon written notice to Recipient or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces ODHS' legislative authorization for expenditure of funds to such a degree that ODHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;
- (3) Immediately upon written notice to Recipient if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that ODHS no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;
- (4) Upon 30 days advance written notice to Recipient, if Recipient is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as ODHS may specify in the notice;
- (5) Immediately upon written notice to Recipient, if any license or certificate required by law or regulation to be held by Recipient or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that Recipient or a subcontractor no longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification; or
- (6) Immediately upon written notice to Recipient, if ODHS determines that Recipient or any of its subcontractors have endangered or are endangering the health or safety of a client or others in performing work covered by this Agreement.

c. **Mutual Termination.** The Agreement may be terminated immediately upon mutual written consent of the parties or at such time as the parties may agree in the written consent.

## 12. **Effect of Termination.**

a. **Entire Agreement.**



- (1) Upon termination of this Agreement, ODHS shall have no further obligation to pay Recipient under this Agreement.
    - (2) Upon termination of this Agreement, Recipient shall have no further obligation to perform Work under this Agreement.
  - b. Obligations and Liabilities.** Notwithstanding Section 11.a., any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.
- 13. Insurance.** All employers, including Recipient, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Recipient shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.
- 14. Records Maintenance, Access.** Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, in such a manner as to clearly document Recipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees that ODHS and the Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all Records for the longest of:
- a.** Six years following final payment and termination of this Agreement;
  - b.** The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166; or
  - c.** Until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.
- 15. Information Privacy/Security/Access.** If this Agreement requires or allows Recipient or, when allowed, its subcontractor(s), to have access to or use of any ODHS computer system or other ODHS Information Asset for which ODHS imposes security requirements, and ODHS grants Recipient or its subcontractor(s) access to such ODHS Information Assets or Network and Information Systems, Recipient shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this Section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.
- 16. Assignment of Agreement, Successors in Interest.**
- a.** Recipient shall not assign or transfer its interest in this Agreement without prior written consent of ODHS. Any such assignment or transfer, if approved, is

subject to such conditions and provisions required by ODHS. No approval by ODHS of any assignment or transfer of interest shall be deemed to create any obligation of ODHS in addition to those set forth in this Agreement.

- b.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.
- 17. Resolution of Disputes.** The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. This Section shall survive expiration or termination of this Agreement.
- 18. Subcontracts.** Recipient shall not enter into any subcontracts for any part of the program supported by this Agreement without ODHS' prior written consent. In addition to any other provisions ODHS may require, Recipient shall include in any permitted subcontract under this Agreement provisions to ensure that ODHS will receive the benefit of subcontractor activity(ies) as if the subcontractor were the Recipient with respect to Sections 1, 2, 3, 6, 7, 8, 10, 11, 12, 13, 15, 16, and 17 of this Exhibit B. ODHS' consent to any subcontract shall not relieve Recipient of any of its duties or obligations under this Agreement.
- 19. No Third Party Beneficiaries.** ODHS and Recipient 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 any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. This Section shall survive expiration or termination of this Agreement.
- 20. Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. This Section shall survive expiration or termination of this Agreement.
- 21. Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, e-mail, or mailing the same, postage prepaid to Recipient or ODHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by e-mail shall be deemed received and effective five days after the date of e-mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the Recipient, or on the next business day if transmission was outside normal business hours of the Recipient. Notwithstanding

the foregoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

**ODHS:** Office of Contracts & Procurement  
635 Capitol Street NE, Suite 350  
Salem, OR 97301  
Telephone: 503-945-5818  
Fax: 503-378-4324

This Section shall survive expiration or termination of this Agreement.

22. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
23. **Amendments; Waiver; Consent.** ODHS may amend this Agreement to the extent provided herein, the solicitation document, if any from which this Agreement arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Agreement shall bind either party unless it is in writing and signed by both parties and when required, approved by the Department of Justice. Such amendment, waiver, or consent 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 that party of that or any other provision. This Section shall survive the expiration or termination of this Agreement.
24. **Force Majeure.** Neither ODHS nor Recipient shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, or war which is beyond the reasonable control of ODHS or Recipient, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. ODHS may terminate this Agreement upon written notice to the other party after reasonably determining that the delay or breach will likely prevent successful performance of this Agreement.
25. **Merger Clause.** This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein, regarding this Agreement.
26. **Limitation of Liabilities.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

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## **EXHIBIT C**

### **Subcontractor Insurance Requirements**

#### **1. SUBCONTRACTOR INSURANCE**

Local Government shall require its first tier contractor(s) (Contractor) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, CONTINUOUS CLAIMS MADE COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between Local Government and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. Local Government shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Local Government shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Local Government shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall Local Government permit a contractor to work under a Subcontract when the Local Government is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

#### **TYPES AND AMOUNTS**

#### **2. WORKERS' COMPENSATION & EMPLOYERS' LIABILITY**

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

**3. COMMERCIAL GENERAL LIABILITY:**

**Required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$4,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000.

**4. AUTOMOBILE LIABILITY INSURANCE:**

**Required**       **Not required**

Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$4,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

**5. PROFESSIONAL LIABILITY:**

**Required**       **Not required**

**Professional Liability insurance** covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees . If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor and Subcontractors shall provide continuous claims made coverage as stated below.

**6. EXCESS/UMBRELLA INSURANCE:**

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

**7. ADDITIONAL COVERAGE REQUIREMENTS:**

Contractor's insurance shall be primary and non-contributory with any other insurance. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

**8. ADDITIONAL INSURED:**

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Subcontract must include an additional insured endorsement specifying the State of Oregon, its officers,

employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

**9. WAIVER OF SUBROGATION:**

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

**10. CONTINUOUS CLAIMS MADE COVERAGE:**

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Contract, for a minimum of 24 months following the later of:

- (i) Contractor's completion and Agency's acceptance of all Services required under the Contract, or
- (ii) Agency or Contractor termination of this Contract, or
- (iii) The expiration of all warranty periods provided under this Contract.

**11. CERTIFICATE(S) AND PROOF OF INSURANCE:**

Local Government shall obtain from the Contractor a Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this contract. 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. As proof of insurance Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

**12. NOTICE OF CHANGE OR CANCELLATION:**

The Contractor or its insurer must provide at least 30 days' written notice to Local Government before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**13. INSURANCE REQUIREMENT REVIEW:**

Contractor agrees to periodic review of insurance requirements by Agency under this agreement and to provide updated requirements as mutually agreed upon by Contractor and Agency.

**14. STATE ACCEPTANCE:**

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

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## EXHIBIT D

### Federal Terms and Conditions

**General Applicability and Compliance.** Unless exempt under 45 Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, Recipient shall comply and, as indicated, require all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to Recipient, or to the grant activities, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** Recipient shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of grant activities. Without limiting the generality of the foregoing, Recipient expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of ODHS Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide grant activities in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then Recipient shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$100,000 then Recipient shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to ODHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Recipient shall include and require all subcontractors to include in all



contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this Section.

4. **Energy Efficiency.** Recipient shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, the Recipient certifies, to the best of the Recipient's knowledge and belief that:
  - a. No federal appropriated funds have been paid or will be paid, by or on behalf of Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
  - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Recipient shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
  - c. The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
  - d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
  - e. No part of any federal funds paid to Recipient under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

- f.** No part of any federal funds paid to Recipient under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
  - g.** The prohibitions in subsections (e) and (f) of this Section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
  - h.** No part of any federal funds paid to Recipient under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
- 6. Resource Conservation and Recovery.** Recipient shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
- 7. Audits.**
- a.** Recipient shall comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
  - b.** If Recipient expends \$750,000 or more in federal funds (from all sources) in a federal fiscal year, Recipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to ODHS within 30 days of completion. If Recipient expends less than \$750,000 in a federal fiscal year, Recipient is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, “Records Maintenance, Access”.
- 8. Debarment and Suspension.** Recipient shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal Procurement or

Nonprocurement Programs” in accordance with Executive Orders No. 12549 and No. 12689, “Debarment and Suspension” (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

- 9. Pro-Children Act.** Recipient shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. 6081 et. seq.).
- 10. Medicaid Services.** Recipient shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. 1396 et. seq., including without limitation:
  - a.** Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
  - b.** Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
  - c.** Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 Subpart I.
  - d.** Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Recipient shall acknowledge Recipient’s understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
  - e.** Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. 1396a(a)(68).
- 11. Agency-based Voter Registration.** If applicable, Recipient shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.
- 12. Disclosures.**
  - a.** 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address

(including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b.** Recipient shall furnish to the State Medicaid agency or to the Health and Human Services (HHS) Secretary, within 35 days of the date of the request, full and complete information about the ownership of any subcontractor with whom the Recipient has had business transactions totaling more than \$25,000 during the previous 12 month period ending on the date of the request, and any significant business transactions between the Recipient, and any wholly owned supplier or between the Recipient and any subcontractor, during the five year period ending on the date of the request. See, 42 CFR 455.105.
- c.** 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- d.** As such, Recipient must disclose any person with a 5% or greater direct or indirect ownership interest in the Recipient whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or Title XXI program in the last 10 years.
- e.** Recipient shall make the disclosures required by this Section 12. to ODHS. ODHS reserves the right to take such action required by law, or where ODHS has discretion, as it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

**13. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the activities performed under this Agreement, may have certain rights as set forth in the federal requirements pertinent to

these funds. For purposes of this subsection, the terms “grant” and “award” refer to funding issued by the federal funding agency to the State of Oregon. The Recipient agrees that it has been provided the following notice:

- a.** The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work, and to authorize others to do so, for Federal Government purposes with respect to:
  - (1) The copyright in any work developed under a grant, subgrant or contract under a grant or subgrant; and
  - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
- b.** The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.”
- c.** The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or contract under a grant or subgrant.

- 14. Federal Whistleblower Protection.** Recipient shall comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Enhancement of contractor protection from reprisal for disclosure of certain information.

## ADRC COVID-19 Relief Grant Quarterly Invoice

A.

<b>AAA/CIL: xxxx</b>	<b>Contract #: xxx</b>
<b>Quarterly: xxx</b>	

B.

Quarterly Site Expenditures	Total Costs Per Category	Description
Staff Time	\$ -	ADRC COVID-19 relief grant activities
Items purchased for the consumer (details tab)	\$ -	
Contractor investments (details tab)	\$ -	
Number of consumers served	0	
<b>Total</b>	<b>\$0.00</b>	

C.

Total COVID Eligible Costs	\$0.00	FF available
----------------------------	--------	--------------

D.

All costs included in this invoice:

- comply with OMB Circular A-122 Cost Principles for Non-Profit Organizations.
- have not been claimed under other federal grants.
- include only actual expenditures.

E.

Certified by: Printed Name _____
Signature: _____
Date _____

F.

Certified by APD: Printed Name _____
Signature _____
Date _____

# Financial Assistance Application Lifecycle Form

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

## \*\* CONCEPTION \*\*

Note: The processes outlined in this form are not applicable to disaster recovery grants.

### Section I: Funding Opportunity Information - To be completed by Requester

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

**If renewal, complete sections 1, 2, & 4 only**  
**If Disaster or Emergency Relief Funding, EOC will need to approve prior to being sent to the BCC**

Lead Department & Fund: H3s/SSD - 240

Name of Funding Opportunity: State IGA - ADRC NWD

Funding Source: Federal  State  Local

Requestor Information (Name of staff person initiating form): Stefanie Reid-Danielson

Requestor Contact Information: 503-655-8330 or 503-320-8884 stefanierei@clackamas.us

Department Fiscal Representative: same

Program Name or Number (please specify): 05294 & 05296 - ADRC-No Wrong Door/ADRC Options Counseling

Brief Description of Project:

Funding to support Social Service Division's Aging & Disabilities Resource Center (ADRC) Unit to administer the No Wrong Door approach to providing access to public and private long term care services and support, including Person Centered Options Counseling. This service model links residents to resources and support to assist them in making informed Long Term Care decisions. This helps residents remain independent and involved in the community of their choosing as long as possible.

Name of Funding Agency: Oregon Department of Human Services/Adults & People w/Disabilities/Community Solutions & Supports Unit

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

<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/SUA/Pages/index.aspx>

OR

Application Packet Attached:  Yes  No

Completed By: S. Reid-Danielson Date \_\_\_\_\_

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

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

Competitive Application <input type="checkbox"/>	Non-Competing Application <input type="checkbox"/>	Other <input checked="" type="checkbox"/>	
CFDA(s), if applicable:	<u>N/A</u>	Funding Agency Award Notification Date:	<u>N/A</u>
Announcement Date:	<u>N/A</u>	Announcement/Opportunity #:	<u>N/A</u>
Grant Category/Title:	<u>Federal Medicaid &amp; State Funds</u>	Max Award Value:	<u>\$285,387 estimated</u>
Allows Indirect/Rate:	<u>No. General Fund \$26,693</u>	Match Requirement:	<u>N/A</u>
Application Deadline:	<u>N/A</u>	Other Deadlines:	<u>N/A</u>
Award Start Date:	<u>07/01/2021</u>	Other Deadline Description:	<u>N/A</u>
Award End Date:	<u>06/30/2023</u>		
Completed By:	<u>S. Reid-Danielson</u>	Program Income Requirement:	<u>N/A</u>
Pre-Application Meeting Schedule:	<u>N/A</u>		

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

**Mission/Purpose:**

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

These services link residents with resources to meet their individual needs. This helps them to remain independent and active in the community.

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

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

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

**Organizational Capacity:**

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

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

3. If this is a pilot project, what is the plan for sunseting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

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



**Collaboration**

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

**Reporting Requirements**

1. What are the program reporting requirements for this grant/funding opportunity?

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

3. What are the fiscal reporting requirements for this funding?

**Fiscal**

1. Will we realize more benefit than this financial assistance will cost to administer?

2. Are other revenue sources required? Have they already been secured?

3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?

4. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

Program Approval:

**Kati Tilton**

**6/28/21**

**Kati Tilton**

Digitally signed by Kati Tilton  
Date: 2021.06.28 14:38:37 -07'00'

Name (Typed/Printed)

Date

Signature

**\*\* NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR \*\***

**\*\*ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY. COUNTY FINANCE OR ADMIN WILL SIGN.\*\***

**Section IV: Approvals**

<b>DIVISION DIRECTOR (or designee, if applicable)</b>		
Teresa Christopherson	6/28/21	Teresa D. Christopherson
Name (Typed/Printed)	Date	Signature

Digitally signed by Teresa D. Christopherson  
Date: 2021.06.28 14:53:02 -07'00'

<b>DEPARTMENT DIRECTOR (or designee, if applicable)</b>		
Mary Rumbaugh for Rodney A Cook	July 27, 2021	Mary Rumbaugh
Name (Typed/Printed)	Date	Signature

Digitally signed by Mary Rumbaugh  
Date: 2021.07.27 08:08:06 -07'00'

<b>FINANCE ADMINISTRATION</b>		
Elizabeth Comfort	7.27.2021	Elizabeth Comfort
Name (Typed/Printed)	Date	Signature

Digitally signed by Elizabeth Comfort  
Date: 2021.07.27 14:28:41 -07'00'

<b>EOC COMMAND APPROVAL (DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)</b>		
Name (Typed/Printed)	Date	Signature

**Section V: Board of County Commissioners/County Administration**

*(Required for all grant applications. If your grant is awarded, all grant **awards** must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)*

**For applications less than \$150,000:**

<b>COUNTY ADMINISTRATOR</b>	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
Name (Typed/Printed)	Date	Signature

**For applications greater than \$150,000 or which otherwise require BCC approval:**

BCC Agenda item #:

Date:

**OR**

Policy Session Date:

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County Administration Attestation

**County Administration: re-route to department contact when fully approved.  
Department: keep original with your grant file.**

November 4, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Local Subrecipient Grant Agreement Amendment #3 with  
Todos Juntos for continuation of Kindergarten Partnership Innovation Services in Clackamas  
County Agreement is increased by \$225,711 funded through Oregon Early Learning Division  
No County Funds are involved

<b>Purpose/Outcome</b>	Todos Juntos will continue to provide culturally-responsive Kindergarten Partnership Innovation (KPI) services that increase Kindergarten readiness for pre-kindergarten children and families living in Rural Clackamas County. <ul style="list-style-type: none"> <li>• Jump Start – pre-Kindergarten programming that supports academic/behavioral growth for children entering kindergarten and connects families to schools</li> <li>• Family Engagement – family nights to provide activities for child and parent engagement</li> <li>• Kindergarten Readiness – workshops for children and parents supporting ready kindergarten practices intended to build early literacy, critical thinking, and social/emotional skills</li> <li>• Playgroups – offered in partnership with local libraries to support social and cognitive skill development</li> </ul>
<b>Dollar Amount and Fiscal Impact</b>	Amendment #3 adds \$225,711 for a maximum value of \$512,052 and extends the end date to June 30, 2023. No County General Fund involved
<b>Funding Source</b>	State of Oregon, Dept of Education through its Early Learning Division - Kindergarten Innovation Partnership Grant
<b>Duration</b>	This amendment is effective October 1, 2021 for services ending June 30, 2023.
<b>Previous Board Action/Review</b>	Previous Board Action: 6/24/21 Board Issues Date: 11/2/21
<b>Strategic Plan Alignment</b>	1. Ensure safe, healthy and secure communities
<b>Counsel Review</b>	This Subrecipient Grant amendment has been reviewed and approved by County Counsel on 10/7/21, KR
<b>Procurement Review</b>	Was the item processed through Procurement? No. Subrecipient grant amendment, selected through a competitive process
<b>Contact Person</b>	Adam Freer 971-533-4929
<b>Contract No.</b>	CFCC 9473

**BACKGROUND:**

The Children, Family & Community Connections Division of the Health, Housing and Human Services Department requests approval of a Local Subrecipient Grant Amendment #3 with Todos Juntos for the continuation of KPI services. Todos Juntos was selected through a competitive process in 2019 to provide culturally responsive evidence-based Early Learning programming and workshops to children and families to support a smooth transition into Kindergarten and strengthen connections and collaborations between the early care and education sector systems.

This Local Subrecipient Grant Agreement Amend #3 is effective upon signature by all parties for services starting on October 1, 2021 and terminating on June 30, 2023. This Amendment #3 adds \$225,711 for a maximum value of \$512,052.

**RECOMMENDATION:**

Staff recommends the Board approval of this Agreement and authorization for Tootie Smith, Board Chair, to sign on behalf of Clackamas County.

Respectfully submitted,

*Mary Rumbaugh*

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

Local Subrecipient Grant Amendment (FY 21-22)  
**H3S – Children, Family & Community Connections Division**

<u>Local Recipient Agreement Number: 9473</u>	<u>Board Order Number: 062421</u>
<u>Department/Division: H3S-CFCC</u>	<u>Amendment No. 3</u>
<u>Local Recipient: Todos Juntos</u>	<u>Amendment Requested By: Adam Freer</u>
Changes: <input type="checkbox"/> Scope of Service <input checked="" type="checkbox"/> Agreement Time	<input checked="" type="checkbox"/> Agreement Budget <input type="checkbox"/> Other:

**Justification for Amendment:**

This Amendment #3 is entered into between Todos Juntos (“SUBRECIPIENT”) and Clackamas County (“COUNTY”) and shall become part of that Subrecipient Grant Agreement (“Agreement”) entered into between both parties on October 29, 2019.

Todos Juntos, a local non-profit organization, was selected through a competitive process in 2019 to provide community and school partnerships and innovations that result in measureable increases in readiness for pre-kindergarten children aged 3-5 years living in Rural Clackamas County.

This Amendment #3 adds to the maximum compensation and extends the end date for continuity of program service delivery to provide culturally responsive evidence-based Early Learning programming and workshops to children and parents to support a smooth transition into Kindergarten and strengthen connections and collaborations between the early care and education sector systems.

Maximum compensation is increased by \$225,711 for a revised maximum of \$512,052. Amendment #3 becomes effective when it is fully executed for services beginning October 1, 2021 and terminating on June 30, 2023.

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:**

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Amendment may be used to reimburse SUBRECIPIENT for expenses approved in writing by COUNTY relating to the project incurred no earlier than July 1, 2021 and not later than September 30, 2021, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.

**TO READ:**

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this **Amendment #3** may be used to reimburse SUBRECIPIENT for expenses approved in writing by COUNTY relating to the project incurred no earlier than **October 1, 2021 and not later than June 30, 2023**, unless this Agreement is sooner terminated or extended

pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.

**AMEND:**

2. **Grant Funds.** COUNTY's funding for this Agreement is the State of Oregon acting by and through its Department of Education, Early Learning Division issued to COUNTY. The maximum, not to exceed, grant amount that COUNTY will pay on this agreement is \$286,341.

**TO READ:**

2. **Grant Funds.** COUNTY's funding for this Agreement is the State of Oregon acting by and through its Department of Education, Early Learning Division issued to COUNTY. The maximum, not to exceed, grant amount that COUNTY will pay on this agreement is **\$512,052.**



<p>By June 30, 2023 120 unduplicated families will participate in weekly community based playgroups/story hours. Play groups may be offered virtually or in person.</p>	<p><b>85% of parents</b> will report their child gained confidence in engaging with other children.</p>	# of NEW parents attending playgroup								
		# of parents assessed								
		# of parents reporting gain of confidence for their child								
		% of parents reporting gain of confidence for their child								
<p>By June 30, 2023 conduct 4 evening family activity engagement events, serving a minimum of 80 total parents in partnership with rural elementary schools. These may be facilitated in person or virtually.</p>	<p><b>85% of parents</b> attending family engagement activities will report the skills gained at these events improved their relationship with their child, their child's teacher, or the school.</p>	# of family engagement events held								
		# of parents attending								
		# of parents assessed								
		# of parents successful								
		% of parents successful								
<b>Little Chippers</b>										
<p>By June 30 2023, 40 children and their parents/caregivers will participate in Six -90 min workshops supporting ready for kindergarten practices</p>	<p><b>85% of parents</b> will have increased understanding of beneficial pre-kindergarten skills</p> <p><b>85% of parents</b> will learn and feel confident in new ways to support their child's social and academic development.</p>	# of 90 min workshops offered (River Mill)								
		# of 90 min workshops offered (Sandy)								
		# of parents attending								
		# of parents assessed								
		# of parents with increase in understanding of skills								
		% successful								
		# of parents confident in supporting their child								
		% successful								
<b>Bobcat Pack</b>										
<p>By June 30, 2023, 30 core youth will participate in twice weekly</p>	<p><b>KPI6/7A: 85% of core youth</b> will show progress in meeting individual case plan goals as assessed by Coordinator and</p>	Total # core youth served (Sandy)								
		Total # core youth assessed								



afterschool kindergarten support activities in partnership with Sandy Grade School. (Bobcat Pack)	relevant school staff and documented in client files  <b>KPI6/7B: 85% of core youth</b> identified as needing to develop changes in pro-social skills will show positive improvement on age appropriate assessments.  <b>KPI6/7C: 75% of core youth</b> in literacy programs will increase reading skills.  <b>KPI6/7D: 85% of core youth</b> will show maintained or improving school attendance rates	Total # core youth successful in progress towards case goals								
		Total % core youth successful in progress towards case goals								
		Total # core youth successful in increased pro-social behaviors								
		Total % core youth successful in increased pro-social behaviors								
		Total # core youth successful in increased literacy skills								
		Total % core youth successful in increased literacy skills								
		Total % core youth successful in maintaining or increasing school attendance rate								
<b>Timbers Club</b>										
By June 30, 2023, 30 core youth will participate in twice weekly afterschool kindergarten support activities in partnership with River Mill Elementary School. (Timbers Club)	progress in meeting individual case plan goals as assessed by Coordinator and relevant school staff and documented in client files  <b>KPI6/7B: 85% of core youth</b> identified as needing to develop changes in pro-social skills will show positive improvement on age appropriate assessments.  <b>KPI6/7C: 75% of core youth</b> in literacy programs will increase reading skills.  <b>KPI6/7D: 85% of core youth</b> will show maintained or improving school attendance rates	Total # core youth served (Estacada)								
		Total # core youth assessed								
		Total # core youth successful in progress towards case goals								
		Total % core youth successful in progress towards case goals								
		Total # core youth successful in increased pro-social behaviors								
		Total % core youth successful in increased pro-social behaviors								
		Total # core youth successful in increased literacy skills								
		Total % core youth successful in increased literacy skills								
Total % core youth successful in maintaining or increasing school attendance rate										

**Children, Family & Community Connections  
 Early Learning Hub of Clackamas County  
 Work Plan 2021-2023  
 Comments and Narrative**

*Please provide updates on key strategies and deliverables as well as any changes in sustainability planning and cross-sector partnerships. . Include program successes and current challenges. Note any strategies moving forward to alleviate those challenges. Please include in this narrative any professional development Ready Set Go staff may have participated in that was funded through this contract.*

Reporting Period	Narrative
<b>October – December 2021:</b>	
<b>January-March 2022:</b>	
<b>April-June 2022:</b>	
<b>July-Sept 2022:</b>	
<b>October – December 2022:</b>	
<b>January-March 2023:</b>	
<b>April-June 2023:</b>	

**Reporting Requirements**

**Monthly report, general ledger and reimbursement request**

- No later than the 15th of every month
- Chelsea Hamilton ([chamilton@clackamas.us](mailto:chamilton@clackamas.us)), Stephanie Radford (sradford@clackamas.us)

**Quarterly Report and Demographic Data Form & Project Testimonial**

- **Program reports are due by the 15<sup>th</sup> of the month following the close of each quarter.**
- **Final programming reporting for the contract must be completed by July 15, 2023.**

**Testimonial or story**

Please provide two testimonials or stories related to your quality work with families for each site you provide services. Completed testimonial due by July 15, 2023 but may be submitted at any time. Your testimonial page serves as a platform to demonstrate how this project has facilitated innovative approaches for linking Early Learning with K-12 education. It is an opportunity to highlight your organization and the impact of your work in the community through this project. Testimonials will be presented to The Early Learning Hub Council as a part of the final report.

**Creation and Distribution of Educational Materials and Resources**

Please send all program marketing materials to [chamilton@clackamas.us](mailto:chamilton@clackamas.us) prior to community distribution. Please include the Early Learning Hub of Clackamas County logo on all materials developed for programs funded through this contract.

**ADD:**

Exhibit B: Budget Todos Juntos KPI

Exhibit B: BUDGET - KPI Amend 3		
<b>Contractor:</b>	Todos Juntos	
<b>Address:</b>	PO Box 645	
	Canby, OR 97013	
<b>Contact Person:</b>	Shawna Johnson	
<b>Phone Number:</b>	503.341.3381	
<b>E-mail:</b>	<a href="mailto:shawnaj@todos-juntos.net">shawnaj@todos-juntos.net</a>	
<b>Contract Term:</b>	October 1, 2021-June 30, 2023	
<b>Contract #:</b>	9473 Amend 3	
Budget Category	Approved Budget (10/1/21-6/30/23)	Match
<b>Personnel</b>		Not required on this Agreement
Early Childhood Program Director .22 fte	\$ 35,000.00	
Sandy Early Childhood Coordinator .89 fte	\$ 70,000.00	
Estacada Early Childhood Coordinator .80 fte	\$ 70,000.00	
Taxes & Fringe @ .11%	\$ 19,250.00	
<b>Total Personnel</b>	<b>\$ 194,250.00</b>	
<b>Administration</b>		
Administration	\$ 19,000.00	
<b>Total Administration</b>	<b>\$ 19,000.00</b>	
<b>Program</b>		
Materials, curriculum, Equipment & Supplies	\$ 8,186.00	
Insurance	\$ 1,275.00	
Mileage	\$ 3,000.00	
<b>Total Program</b>	<b>\$ 12,461.00</b>	
<b>Total Budget</b>	<b>\$ 225,711.00</b>	

**ADD: Exhibit D-1 Todos Juntos Reimbursement Request**

Exhibit D-1: KPI REIMBURSEMENT REQUEST				
Requests for reimbursement and supporting documentation are due monthly by the 15th of the month, including: <ul style="list-style-type: none"> <li>• Request for Reimbursement with an authorized signature</li> <li>• General Ledger backup to support the requested amount</li> <li>• Monthly Activity Report (Exhibit D-2) showing numbers served and activities conducted during the month of request (The Monthly Activity Report is NOT required on months when quarterly reports are due) .</li> </ul>				
<b>Contractor:</b>	Todos Juntos - KPI Amend 3			
<b>Address:</b>	PO Box 645		<b>Report Period:</b>	
	Canby, OR 97013			
<b>Contact Person:</b>	Shawna Johnson			
<b>Phone Number:</b>	503.341.3381		<b>Contract</b>	9473 Amend 3
<b>E-mail:</b>	<a href="mailto:shawnaj@todos-juntos.net">shawnaj@todos-juntos.net</a>			
<b>Contract Period:</b>	October 1, 2021-June 30, 2023			
Budget Category	Approved Budget (10/1/21-6/30/23)	Current Draw Request	Previously Requested	Balance
<b>Personnel</b>				
Early Childhood Program Director .22 fte	\$ 35,000.00	\$ -	\$ -	\$ 35,000.00
Sandy Early Childhood Coordinator .89 fte	\$ 70,000.00	\$ -	\$ -	\$ 70,000.00
Estacada Early Childhood Coordinator .80 fte	\$ 70,000.00	\$ -	\$ -	\$ 70,000.00
Taxes & Fringe @ .11%	\$ 19,250.00	\$ -	\$ -	\$ 19,250.00
<b>Total Personnel</b>	<b>\$ 194,250.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 194,250.00</b>
<b>Administration</b>				
Administration (10% of personnel)	\$ 19,000.00	\$ -	\$ -	\$ 19,000.00
<b>Total Administration</b>	<b>\$ 19,000.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 19,000.00</b>
<b>Program</b>				
Materials, Curriculum & Supplies	\$ 8,186.00	\$ -	\$ -	\$ 8,186.00
Insurance	\$ 1,275.00	\$ -	\$ -	\$ 1,275.00
Mileage	\$ 3,000.00	\$ -	\$ -	\$ 3,000.00
<b>Total Program</b>	<b>\$ 12,461.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 12,461.00</b>
<b>Total Grant Funds Requested</b>	<b>\$ 225,711.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 225,711.00</b>
By signing this request, I verify that the information on this Funds Request and attachments is accurate, represents contracted services, and is true to the best of my knowledge. Clackamas County retains the right to inspect all financial records and other books, documents, papers, plans, records of shipments and payments and writings that are pertinent to this Contract.				

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

**AGENCY**

Todos Juntos  
PO Box 645  
Canby, OR 97013

By:   
Eric Johnston, Director

Date: 10-7-21

**CLACKAMAS COUNTY**

Commissioner: Tootie Smith, Chair  
Commissioner: Sonya Fischer  
Commissioner: Paul Savas  
Commissioner: Martha Schrader  
Commissioner: Mark Shull

\_\_\_\_\_  
Tootie Smith, Board Chair  
Clackamas County

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



Capt. Malcolm McDonald  
Director

**CLACKAMAS COUNTY COMMUNITY CORRECTIONS**  
**1024 MAIN STREET • OREGON CITY • OREGON • 97045**  
**TELEPHONE 503-655-8603 • • • FAX 503-650-8942**

November 4, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement No. 6188 between the  
State of Oregon, Department of Corrections and Clackamas County Community Corrections

<b>Purpose/Outcome</b>	This IGA will provide funding for Community Corrections Men’s and Women’s Corrections Substance Abuse Programs for the 2021-2023 biennium
<b>Dollar Amount and Fiscal Impact</b>	\$663,456 These state dollars fund 7.89% of the Corrections Substance Abuse Programs
<b>Funding Source</b>	State of Oregon Department of Corrections, Measure 57 Supplemental Funds, No General Funds are involved
<b>Duration</b>	July 1, 2021 - June 30, 2023
<b>Previous Board Action/Review</b>	2019-2021 Biennial approval Discussed at issues November 2, 2021
<b>Counsel Review</b>	10/19/2021
<b>Strategic Plan Alignment</b>	Provide supervision, resources, intervention, and treatment services. Ensure Safe, Healthy and Secure Communities
<b>Contact Person</b>	Captain Malcolm McDonald, Director, Community Corrections – 503-655-8717

**BACKGROUND:** This IGA is required for any County receiving Community Corrections funds. Approval of this IGA allows for continuation of funding of the current Community Corrections Substance Abuse Programs through Measure 57 supplemental funds.

**RECOMMENDATION:** Community Corrections respectfully requests that the Board of County Commissioners approve the Intergovernmental Agreement No. 6188 between Clackamas County and the State of Oregon Department of Corrections, for the Measure 57 supplemental funds.

Respectfully submitted,

Captain Malcolm McDonald  
Director, Community Corrections

INTERGOVERNMENTAL AGREEMENT #6188  
BETWEEN THE STATE OF OREGON AND CLACKAMAS COUNTY

TABLE OF CONTENTS

I	DEFINITIONS .....	2
II	AUTHORITY AND DURATION .....	3
III	PLAN AND PLAN MODIFICATION .....	3
IV	AMENDMENTS GENERALLY .....	4
V	DUTIES AND RESPONSIBILITIES OF COUNTY .....	4
VI	DEPARTMENT RESPONSIBILITIES .....	6
VII	PERFORMANCE GOALS .....	6
VIII	FUNDS .....	7
IX	NONCOMPLIANCE .....	7
X	INDEMNIFICATION. See Exhibit B .....	7
XI	TERMINATION .....	8
XII	COMPLIANCE WITH APPLICABLE LAW .....	8
XIII	ACCESS TO RECORDS .....	8
XIV	SURVIVAL .....	9
XV	GOVERNING LAW; JURISDICTION; VENUE .....	9
XVI	WAIVER .....	9
XVII	EXECUTION AND COUNTERPARTS .....	9
XVIII	NOTICE .....	9
XIX	MERGER; INTEGRATION .....	10
	EXHIBIT A COUNTY INTERVENTION PLAN and BUDGET SUMMARY .....	11
	EXHIBIT B INDEMNIFICATION .....	12

This Agreement is between the State of Oregon acting by and through its Department of Corrections, hereafter called DEPARTMENT, and Clackamas County, hereafter called COUNTY.

Whereas, DEPARTMENT is an agency of the State of Oregon and COUNTY is a unit of local government of the State of Oregon and both parties desire to cooperate by agreement to provide correctional services in COUNTY within the requirements as authorized by ORS 423.475 to 423.565;

Whereas, the Legislative Assembly of Oregon enacted legislation establishing shared responsibility between county corrections programs and the DEPARTMENT on a continuing basis (ORS 423.475 to 423.565);

Whereas, ORS 144.106 provides “the supervisory authority shall use a continuum of administrative sanctions for violations of post-prison supervision”;

Whereas, Oregon Laws 2008, chapter 14 (Measure 57) was passed by voters of the State of Oregon increasing sentences for certain drug trafficking and theft crimes, requiring addiction treatment for certain offenders at risk of reoffending, and authorizing DEPARTMENT to make grants to counties to provide supplemental funding;

Whereas, supplemental funds have been made available to counties for treatment of drug-addicted persons, in accordance to OAR Chapter 291, Division 31;

Whereas, supplemental funds are made available to counties based on a formula that matches the COUNTY’s percentage share of community corrections grant-in-aid funds;

Whereas, the DEPARTMENT will administer distribution of grants to counties;

Now, therefore, THE PARTIES HERETO, in consideration of the mutual promises, terms and conditions hereinafter provided, agree to the following:

## **I DEFINITIONS**

- A. Amendment: Any change to this Agreement that alters the terms and conditions of the Agreement. Plan Modifications are NOT Amendments.
- B. Budget Summary: A budget submitted by COUNTY and approved by DEPARTMENT which identifies personnel, materials, services and funding COUNTY will use to implement the Plan. COUNTY’s Intervention Budget Summary is described in Exhibit A.
- C. Community Corrections Manager: Individual designated by COUNTY pursuant to ORS 423.525 as responsible for administration of the community corrections programs as set forth by the Plan.
- D. County Corrections: All COUNTY agencies and officials who carry out the responsibilities in ORS 423.478(2)(a)-(f) and the activities of carrying out those responsibilities.
- E. County Corrections Intervention Grant or Grant: Grant(s) made by DEPARTMENT to assist COUNTY in the implementation and operation of the Plan under this Agreement.



- F. County Intervention Plan or Plan: A document developed by the COUNTY and approved by the DEPARTMENT which describes COUNTY's approach to providing effective Interventions for drug addicted adults on supervision under COUNTY supervision. The County Intervention Plan is described in Exhibit A, County Intervention Plan and Budget Summary.
- G. Intervention: A response to Participant compliance of conditions of the Plan.
- H. Participant: An adult, under supervision of the COUNTY and enrolled in the Plan.
- I. Plan Modification: A written change or alteration to the Plan promulgated by COUNTY modifying the Plan.
- J. Sanctions or Structured Sanctions: A response to adult on supervision violation of conditions of supervision that uses custody units.
- K. Statewide Evaluation and Information System: The Corrections Information Systems (CIS) including the Offender Profile System (OPS), the Integrated Supervision Information System (ISIS), Case Management for Institutions (CMI), Offender Management System (OMS), Offender Information System (OIS), Interstate Compact Offender Tracking System (ICOTS), and related case management modules.
- L. Supervisory Authority: The local corrections official or officials designated in each COUNTY by that COUNTY's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.
- M. Texas Christian University (TCU) Assessment Tool: The Texas Christian University Assessment tool, to be used on Participants in COUNTY program, mandated by the DEPARTMENT.

## II AUTHORITY AND DURATION

### A. Authority

This Agreement is entered into pursuant to the provisions of ORS 423.520.

### B. Duration

This Agreement will become effective on **July 1, 2021** and will remain in effect until **June 30, 2023** or until terminated according to Section XI (*Termination*).

## III PLAN; PLAN MODIFICATIONS

- A. The Plan must be received and approved by DEPARTMENT before disbursements of Grant funds described in Section VIII can be made to COUNTY.
- B. Plan Modifications: COUNTY and DEPARTMENT agree that the Plan must remain a flexible instrument capable of responding to unforeseen needs and requirements. A copy of all Plan Modifications will be marked in sequence beginning with the designation "Plan Modification 1" and attached to the above-mentioned Plan.

DEPARTMENT will notify COUNTY of any concerns about the modification or the need for an amendment within a 30 calendar day period after DEPARTMENT receives the Plan Modification.

- C. Notice of Modification: DEPARTMENT shall provide to COUNTY an approved form for modifications as soon as practicable after execution of this Agreement.
- D. Plan Modifications shall become effective upon the date the Plan Modification is approved in writing by the DEPARTMENT.

#### **IV AMENDMENTS GENERALLY**

The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written Amendment signed by the parties. An Amendment shall become effective only after all parties have signed and all approvals have been obtained.

#### **V DUTIES AND RESPONSIBILITIES OF COUNTY**

- A. COUNTY shall assume administrative responsibility to provide services as outlined in the Plan.
- B. COUNTY shall incorporate the principles described below into the Plan:
  - 1. Treatment programs shall be evidence-based. Evidence-based programs are delivered consistent with the findings in research about what works best to reduce recidivism.
  - 2. Assessment which is standardized, objective, and comprehensive shall be used to prioritize treatment, determine criminal risk factors, and to determine the proper level of care. Assessments of risk shall be based on actuarial risk assessment tools.
  - 3. Rules, requirements and expectations for Participants, including consequences for success and for failure are made formal and clear by an authority figure.
  - 4. An individual case plan shall be developed for each Participant. The case plan shall include criminal risk factors in addition to addiction that will be addressed in treatment.
  - 5. Treatment program design shall address issues of motivation. Treatment options shall be available for Participants consistent with their assessed stage of change.
  - 6. Treatment shall be based on cognitive and behavioral interventions and social learning approaches. Treatment programs shall be of sufficient length and intensity to produce stable behavior changes based on replacing old patterns of thinking and behaving and learning and practicing new skills for avoiding drug use and criminal behavior.

7. The Plan shall utilize a system of graduated Sanctions and incentives which are swift and certain and which encourage recovery goals while holding Participants accountable for non-compliant behaviors.
  8. Weekly random drug testing shall occur, however frequency may decrease as Participant progresses. There shall be a consequence for this or any other rule violation, but that consequence shall not automatically result in withdrawal from treatment. Sanctions shall be administered in a manner to assure longer stays in treatment which are associated with good outcomes.
  9. Co-ed treatment shall be avoided if possible.
  10. Programs shall include relapse prevention planning and comprehensive transition planning so that participants are more likely to adjust to the next level of care or change in living situation.
  11. Addictions treatment programs must be licensed by the State of Oregon to provide addictions treatment.
- C. COUNTY shall incorporate the following data requirements into the Plan:
1. COUNTY will identify Participants through the indicating 'Y' under the M57 Tx data field, located in the Treatment Module.
  2. The start and stop date of the actual program participation, as well as program exit code, will be entered into the CIS Treatment Module.
  3. Program Participants will be assessed for level of severity of addiction, using the Texas Christian University assessment tool (available at no cost), and enter corresponding data as determined by DEPARTMENT.
- D. COUNTY will prepare and furnish such data, descriptive information and reports as may be requested by DEPARTMENT as needed to comply with ORS 423.520, which states in part, "The department shall require recipients of the grants to cooperate in the collection and sharing of data necessary to evaluate the effect of community corrections programs on future criminal conduct." COUNTY will enter data into the Statewide Evaluation and Information System in a complete, accurate, and timely manner. COUNTY acknowledges and agrees that DEPARTMENT has the right to reproduce, use and disclose all or any part of such reports, data and technical information furnished under this Agreement.
- E. COUNTY will permit authorized representatives of DEPARTMENT to make such review of records of COUNTY as may be necessary to satisfy audit and/or program review purposes. A copy of any audit or monitoring report will be made available to COUNTY.
- F. COUNTY will follow DEPARTMENT's prescribed allotment and expenditure reporting system in accordance with Exhibit A. This system will be used for controlling County Corrections Intervention Grant funds by DEPARTMENT and to provide suitable records for an audit.

- G. If funding from DEPARTMENT is reduced or discontinued by legislative action, COUNTY will not be required to increase use of COUNTY revenue for continuing or maintaining corrections services as set out in this Agreement.

**VI DEPARTMENT RESPONSIBILITIES.** The DEPARTMENT will:

- A. Participate according to this Agreement.
- B. Provide funding as described in Section VIII of this Agreement.
- C. Furnish COUNTY, in a timely manner, those rules, administrative directives and procedures required for COUNTY to meet its obligations described herein.
- D. Subject to system capacity and data processing capabilities, DEPARTMENT will furnish data, descriptive information and reports, available to DEPARTMENT and requested by COUNTY that will assist COUNTY in complying with DEPARTMENT requirements. DEPARTMENT hereby grants to COUNTY the right to reproduce, use, and disclose all or part of such reports, data, and technical information furnished under this Agreement.
- E. If by legislative action, funding from DEPARTMENT is reduced to COUNTY, DEPARTMENT agrees to provide reasonable notice and transition opportunity to COUNTY of changes that may significantly alter approved appropriations and programs.
- F. DEPARTMENT will provide technical assistance to COUNTY in implementing and evaluating COUNTY's Plan.

**VII PERFORMANCE GOALS**

Interventions funded under this Agreement will be evaluated by the DEPARTMENT for treatment effectiveness. Goals for the evaluation are to determine if:

- A. Treatment programs are evidence-based, as evaluated by the Corrections Program Checklist.
- B. Recidivism is reduced: Participants will recidivate at lower rates than similar untreated adults on supervision.
- C. Participants reduce drug use: Results of random urinalysis will be analyzed.
- D. Participants show evidence of improved community functioning: Improved community functioning will be measured by successful completion of the program and through the existing community corrections performance measures (successful completion of supervision, employment, payment of restitution and/or community service work).

## VIII FUNDS

- A. Exhibit A identifies the County Corrections Intervention Grant funds authorized under this Agreement for the implementation of the Plan during the term of this Agreement.
- B. Payment to COUNTY will be made in two payments. One-half of the Grant funds will be disbursed to County within 15 days after execution of this Agreement. The second half of the Grant funds will be disbursed on July 1, 2022.
- C. Both parties agree that all reallocations of Grant funds within programs shall require a Plan Modification.
- D. Unexpended Funds: Grant fund balances remaining at the termination of this Agreement may be retained by the COUNTY, upon approval by DEPARTMENT, for the provision of on-going supervision, correctional services, and sanctions in accordance with the Plan.
- E. Unauthorized Expenditures: Any Grant funds disbursed to COUNTY that are expended for unauthorized purposes, or any Unexpended Funds not retained by COUNTY under Section VIII.E, will be deducted by DEPARTMENT from subsequent payments under this Agreement or refunded to DEPARTMENT promptly upon DEPARTMENT's written request and no later than 15 days after DEPARTMENT's written request.
- F. **Maximum Grant Amount.** Grant funds are based upon COUNTY's Application for Supplemental Funds. Unless amended, the maximum, not-to-exceed County Corrections Intervention Grant payable to COUNTY under this Agreement is \$663,456.00. The maximum Grant amount may be increased only by written amendment of this Agreement which is signed by all parties and with all required State approvals.
- G. Disbursement of Grant funds under this Agreement is contingent on DEPARTMENT receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow DEPARTMENT, in the exercise of its reasonable administrative discretion, to make the disbursement.

## IX NONCOMPLIANCE

- A. The Assistant Director of Community Corrections or the Assistant Director's designee of the Community Corrections Division shall review COUNTY's compliance with this Agreement. COUNTY must substantially comply with the provisions of the Plan received by DEPARTMENT and this Agreement.

If, upon review, DEPARTMENT determines that there are reasonable grounds to believe that COUNTY is not in substantial compliance with the Agreement or Plan, including but not limited to COUNTY has failed to meet standards of evidence-based treatment programs as required in Section V.B.1, DEPARTMENT and COUNTY shall proceed in accordance with OAR Chapter 291-031, to reach compliance or, if compliance is not obtained, to suspend funding.

**X INDEMNIFICATION.** See Exhibit B.

**XI TERMINATION**

- A. Parties Right to Terminate at its Discretion. At its sole discretion, any party to this Agreement may terminate this Agreement for its convenience upon 30 days' prior written notice.
- B. Parties may terminate this Agreement immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that DEPARTMENT or COUNTY cannot lawfully perform its obligations under this Agreement.
- C. It is understood and agreed by the parties hereto that this Agreement will remain in force only during its term and will not continue in force after its term. There will be no automatic extension. This Agreement may be extended only by written consent of the parties hereto.
- D. It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement, including any part, term or provision of any appended material, is held by a court to be illegal or in conflict with any law of the State of Oregon or applicable administrative rule, that element of the contract including relevant appended materials will be void and without effect and will be treated by the parties as having been terminated as of the date of determination of the voidness.
- E. It is understood and agreed by the parties hereto that this Agreement will automatically terminate if the State of Oregon provides no funding. If there is reduced state funding, COUNTY may terminate the Agreement as described herein.

**XII COMPLIANCE WITH APPLICABLE LAW**

Both Parties shall comply with all federal, state and local laws, regulations, executive orders, and ordinances to which each is subject and which is applicable to this Agreement. Without limiting the generality of the foregoing, the parties expressly agree to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to those laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. All employers, including COUNTY, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. COUNTY shall ensure that each of its subcontractors complies with these requirements.

Nothing in this Agreement shall require COUNTY or DEPARTMENT to act in violation of state or federal law or the Constitution of the State of Oregon.

**XIII ACCESS TO RECORDS**

For not less than six (6) years after Agreement expiration, DEPARTMENT, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized

representatives shall have access to the books, documents, papers and records of COUNTY which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcripts. COUNTY shall retain all pertinent records until the later of (i) the date that is not less than six (6) years following the Agreement expiration date or (ii) the date on which all litigation regarding this Agreement is resolved. COUNTY agrees full access to DEPARTMENT will be provided in preparation for and during litigation. Copies of applicable records shall be made available upon request. DEPARTMENT shall reimburse COUNTY for the cost of copies DEPARTMENT requests.

#### **XIV SURVIVAL**

All rights and obligations shall cease upon termination or expiration of this Agreement, except for the rights and obligations set forth in Sections IV, X, XI, XII, XIII, XIV, and XV.

#### **XV GOVERNING LAW; JURISDICTION; VENUE**

The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

#### **XVI WAIVER**

The failure of either party to enforce any provision of this Agreement will not constitute a waiver by that party of that or any other provision.

#### **XVII EXECUTION AND COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which will be an original, all of which will constitute but one and the same instrument.

#### **XVIII NOTICE**

Except as otherwise expressly provided in this Agreement, any notices between the Parties to be given hereunder shall be given in writing by personal delivery, facsimile, electronic mail, or mailing the same, postage prepaid to COUNTY or DEPARTMENT at the address or number set forth below, or to such other addresses or numbers as any Party may indicate pursuant to this section. Any notice so addressed and mailed shall be effective five (5) days after mailing. Any notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day, if transmission was outside normal business hours of the recipient. Any notice delivered by electronic mail shall be effective on the day of notification of delivery receipt, if delivery was during normal business hours of the recipient, or on the next business day, if delivery was outside normal business hours of the recipient. Any notice given by personal delivery shall be effective when actually delivered to the Authorized Representatives listed below:

To DEPARTMENT: Jeremiah Stromberg, Assistant Director  
Community Corrections Division  
Department of Corrections  
2575 Center St. NE  
Salem, OR 97301  
Telephone: 503-945-8876  
Fax: 503-373-7810  
E-Mail: Jeremiah.P.Stromberg@doc.state.or.us

To COUNTY: Clackamas County Community Corrections  
Malcolm McDonald, Director  
1024 Main Street  
Oregon City, OR 97045  
Telephone: 503-655-8603  
Fax: 503-650-8942  
Email: malcolmmcd@co.clackamas.or.us

The Parties may change the persons named in this section by notice to the other Parties as provided herein. No amendment to this Agreement is required to make such change.

**XIX MERGER; INTEGRATION**

This instrument contains the entire agreement between the parties and no statement made by any party hereto, or agent thereof, not contained or attached with reference thereto in this written Agreement will be valid or binding. This Agreement will supersede all previous communications, representations, wither verbal or written, between the parties hereto. This Agreement may not be enlarged, modified or altered except in writing, signed by the parties, and attached.

STATE OF OREGON  
DEPT. OF CORRECTIONS

CLACKAMAS COUNTY

\_\_\_\_\_  
Eric McDowell, Contracts Officer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Reviewed by the  
Oregon Attorney General's Office:

/s/ Sam Zeigler (by email dated 5/13/2021)  
Assistant Attorney General



**EXHIBIT A**  
**COUNTY INTERVENTION PLAN and BUDGET SUMMARY**  
**CLACKAMAS COUNTY**  
**(To be attached upon signature and return of Agreement by County)**

## 2021-2023 M57 Supplemental Funds Intervention Program Budget Summary

Program Expenses (please be detailed)	19-21 M57 Supplemental Funds Carryover	21-23 M57 Supplemental Funds	Other State Funds	County/Local Funds	Total
<b>A. Supervision Related Personnel Costs</b>  Salaries and wages (include position FTE and type) 6.0 FTE Community Corrections Officer 6.0 FTE Community Corrections Counselor 0.5 FTE Human Svc Coord  Payroll taxes and benefits	0	\$433,436	\$3,172,998	\$1,890,331	\$5,496,765
<b>B. Materials and Services</b>  Residential Expenses: Room & Board Janitorial/laundry Client support services Building Maintenance UA kits/lab Books/materials Office Supplies Allocated Costs	0	\$121,213	\$887,352	\$528,644	\$1,537,209
<b>C. Treatment Provider and/or Contracted Professional Services</b>  A&D Special Services: 3.5 MH Specialists 160 hours/week Consultation Group treatment Psych/med reviews Nurse/medical services Medication Assisted Treatment (MAT)	0	\$108,807	\$796,528	\$474,536	\$1,379,871
<b>D. Sanction Costs (by type)</b>	0	0	0	0	0
<b>E. Capital Outlay and Start-Up Costs</b>	0	0	0	0	0
<b>Total</b>	0	\$663,456	\$4,856,878	\$2,893,511	\$8,413,845

Clackamas County Community Corrections  
M57 Supplemental Fund  
Program Summary

- The Corrections Substance Abuse Program (CSAP) is a residential alcohol and drug treatment program providing 50 beds for men and 20 beds for women. CSAP targets felony convicted high and medium-high risk to reoffend male and female clients on supervision. Participants may be on parole, post-prison supervision or probation with Clackamas County Community Corrections.
- The Men's and Women's CSAP programs are approximately one year in length with a minimum of six months in residence at the Corrections Center followed by six months of structured aftercare. Treatment is provided by licensed Mental Health Therapists and Community Corrections Counselors who specialize in both addictions and in working with the offender population. Focus is placed on treatment for substance abuse as well as criminal conduct. Clients spend approximately 38 hours per week in structured activities. Treatment curriculum is evidence based and addresses each participant's assessed risk and needs.
- Both programs utilize in-house sanctions such as additional chores, loss of privileges and extra treatment assignments. Rewards/Reinforcers are used to reinforce the positive changes clients are making. The programs utilize a token economy system where clients can purchase items such as coffee, snacks, and hygiene items and can earn extra privileges in the program.
- The Men's and Women's CSAP programs collaborate with Clackamas County Courts, Jail, Behavioral Health, and Public Health. Through sentencing to these treatment programs, clients are allowed an alternative to jail. The Jail assists this transition to the programs by making clients available for evaluation prior to release to identify if the client is program appropriate. Behavioral Health is contracted to provide Mental Health Therapists who facilitate evaluations and supervise treatment.
- Community Corrections does not anticipate any changes to the program due to the impact of BM110.

**EXHIBIT B  
INDEMNIFICATION  
CLACKAMAS COUNTY**

**Contribution**

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

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

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

**Alternative Dispute Resolution**

The parties should attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

## **Indemnification by Subcontractors**

County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

## **Subcontractor Insurance Requirements**

### **GENERAL.**

County shall require its first tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between County and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Department. County shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a contractor to work under a Subcontract when the County is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

### **TYPES AND AMOUNTS.**

#### **PROFESSIONAL LIABILITY**

Professional Liability Insurance covering any damages caused by an error, omission or negligent act related to the services to be provided under the Subcontract, with limits not less than \$2,000,000, as determined by the Department:

"TAIL" COVERAGE. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of 24 months following the later of : (i) the contractor's completion and County 's acceptance of all Services

required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and Department may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If Department approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

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

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



Capt. Malcolm McDonald  
Director

**CLACKAMAS COUNTY COMMUNITY CORRECTIONS**  
**1024 MAIN STREET • OREGON CITY • OREGON • 97045**  
**TELEPHONE 503-655-8603 • • • FAX 503-650-8942**

November 2, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of Intergovernmental Grant Agreement between Clackamas County Community Corrections (CCCC) and OHSU-PSU School of Public Health, Oregon Health & Science University (OHSU) for Improved People’s Access to Community-based Treatment, Support, and Services (IMPACTS) Research Partner

<b>Purpose/Outcome</b>	Community Corrections will build a client database that will allow client tracking while they are in the State funded IMPACTS program.
<b>Dollar Amount and Fiscal Impact</b>	\$23,368.00
<b>Funding Source</b>	State of Oregon Criminal Justice Commission - no general funds are involved
<b>Duration</b>	Upon execution – June 30, 2022
<b>Previous Board Action/Review</b>	No previous action
<b>Strategic Plan Alignment</b>	Provide supervision, resources, intervention, and treatment services. Ensure Safe, Healthy and Secure Communities
<b>Contact Person</b>	Captain Malcolm McDonald, Director, Community Corrections – 503-655-8717

**BACKGROUND:** CCCC is collaborating with OHSU in a consultant position as Research Partner to advise and assist on the database development of evaluation and outcomes for the Improved People’s Access to Community-based Treatment, Support, and Services (IMPACTS) program. IMPACTS is funded through the State of Oregon, and is designed to provide comprehensive support and treatment for individuals who are the highest utilizers of mental health and criminal justice systems.

**RECOMMENDATION:** Community Corrections respectfully requests the Board of County Commissioners approval of Intergovernmental Grant Agreement between CCCC and OHSU to consult as research partner for the development of a database for the IMPACTS program.

Respectfully submitted,

Captain Malcom McDonald  
Director, Community Corrections

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN CLACKAMAS COUNTY COMMUNITY CORRECTIONS (CCCC)  
AND OHSU-PSU SCHOOL OF PUBLIC HEALTH, OREGON HEALTH & SCIENCE  
UNIVERSITY (OHSU)**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County Community Corrections ("CCCC"), and OHSU-PSU School of Public Health, Oregon Health & Science University ("OHSU"), 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.

Community Corrections is partnering with Dr. Elizabeth Waddell in a consultant position to advise and assist on the development of evaluation and outcomes for the Improved People's Access to Community-based Treatment, Support, and Services (IMPACTS) program. IMPACTS is funded through the state of Oregon, and is designed to provide comprehensive support and treatment for individuals who are the highest utilizers of mental health and criminal justice systems.

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

**TERMS**

1. **Term.** This Agreement shall be effective upon execution, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or June 30, 2022, whichever is sooner.
2. **Scope of Work.** OHSU agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").
3. **Consideration.** CCCC agrees to pay OHSU, from available and authorized funds, a sum not to exceed **Twenty-three Thousand Three Hundred Sixty-eight Dollars (\$23,368)** for accomplishing the Work required by this Agreement.
4. **Payment.** Unless otherwise specified, OHSU shall submit monthly invoices for Work performed and shall include the total amount billed to date by OHSU prior to the current invoice. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. Payments shall be made to Agency following the CCCC's review and approval of invoices submitted by OHSU. OHSU shall not submit invoices for, and the CCCC will not pay, any amount in excess of the maximum compensation amount set forth above.
5. **Representations and Warranties.**
  - A. *OHSU Representations and Warranties:* OHSU represents and warrants to CCCC that OHSU 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 OHSU enforceable in accordance with its terms.



- B. *CCCC Representations and Warranties*: CCCC represents and warrants to OHSU that CCCC 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 CCCC 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 CCCC or OHSU may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
- B. Either the CCCC or OHSU may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. CCCC or OHSU shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. Either Party may terminate this Agreement in the event the terminating Party fails to receive expenditure authority sufficient to allow that Party, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Agreement is prohibited or the terminating Party is prohibited from paying for such work from the planned funding source.
- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

**7. Indemnification.**

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, CCCC agrees to indemnify, save harmless and defend the OHSU, 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 CCCC or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the CCCC has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, OHSU agrees to indemnify, save harmless and defend the CCCC, 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 OHSU or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the OHSU has a right to control.

8. **Insurance.** The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.
  
9. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message 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. Dr. Elizabeth Waddell or their designee will act as liaison for OHSU.

**Contact Information:**

[waddelle@ohsu.edu](mailto:waddelle@ohsu.edu)

Malcolm McDonald or their designee will act as liaison for CCCC.

**Contact Information:**

[malcolmmcd@clackamas.us](mailto:malcolmmcd@clackamas.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 CCCC and OHSU 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 CCCC 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. OHSU, 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.** OHSU 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. OHSU 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, OHSU shall permit the County’s authorized representatives’ access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Work Product.** “Background Intellectual Property” means any Intellectual Property developed before the Effective Date and/or independent of the Scope of Services. All Background Intellectual Property used in connection with the Scope of Services shall remain the property of the Party who owned or was in possession of such Background Intellectual Property prior to the Effective Date. OHSU acknowledges and agrees that – aside from the Background Intellectual Property detailed above - all work performed under this Agreement shall be considered work made for hire and shall be the sole and exclusive property of CCCC. CCCC shall own any and all data, documents, plans, specifications, working papers and any other materials produced in connection with this Agreement. On completion or termination of the Agreement, OHSU shall promptly deliver these materials to the CCCC’s Project Manager.
- F. **Publication.** OHSU is entitled to publish work based on this project, with CCCC as co-author, if desired, after providing CCCC with a copy of the publication at least thirty (30) days prior to the intended submission for publication to allow review of materials for any inadvertent disclosure of confidential information. If CCCC believes such disclosure is contained in the proposed publication, CCCC may request that OHSU delete or amend the relevant part of the publication.

- G. **Hazard Communication.** OHSU shall notify CCCC prior to using products containing hazardous chemicals to which CCCC employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 137, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon CCCC's request, OHSU shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- H. **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.
- I. **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.
- J. **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.
- K. **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.
- L. **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.

- M. **No Third-Party Beneficiary.** OHSU and CCCC 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.
- N. **Subcontract and Assignment.** OHSU 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 CCCC, which shall be granted or denied in the CCCC's sole discretion. CCCC's consent to any subcontract shall not relieve OHSU of any of its duties or obligations under this Agreement.
- O. **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.
- P. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (E), (F), (G) (H), (I), (J), (M), (P), (S), (U), and (V) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- Q. **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.
- R. **Time is of the Essence.** OHSU agrees that time is of the essence in the performance this Agreement.
- S. **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.
- T. **Force Majeure.** Neither OHSU nor CCCC shall be held responsible for delay or default caused by events outside of OHSU or CCCC's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, OHSU 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.
- U. **Confidentiality.** OHSU 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 OHSU or its employees or agents in the performance of this Agreement shall be deemed confidential information of the CCCC ("Confidential Information"). OHSU agrees to hold Confidential Information in strict confidence, using at least the same degree of care that OHSU 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.

- V. **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 COMMUNITY  
CORRECTIONS**

Chair, Tootie Smith  
Commissioner, Sonya Fischer  
Commissioner, Paul Savas  
Commissioner, Martha Schrader  
Commissioner, Mark Shull

Signing on Behalf of Clackamas County  
Community Corrections

**OHSU-PSU School of Public Health,  
Oregon Health & Science University**

Lisa Fitzpatrick, Pre-award Manager

Signing on Behalf of OHSU-PSU School  
of Public Health, Oregon Health & Science  
University

---

Tootie Smith, Chair

---

Lisa Fitzpatrick, Pre-award Manager

## Exhibit A

### **IMPACT-OHSU Scope of Work**

#### **Statement of Work**

Contractor: OHSU-PSU School of Public Health, Oregon Health & Science University (OHSU)

Type of Service: Research Partner/Technical Assistance

Contract Start Date: Upon execution of this Agreement by both parties.

Contract End Date: 06/30/2022

#### **Project Description:**

Community Corrections is partnering with Dr. Elizabeth Waddell in a consultant position to advise and assist on the development of evaluation and outcomes for the Improved People's Access to Community-based Treatment, Support, and Services (IMPACTS) program. IMPACTS is funded through the state of Oregon, and is designed to provide comprehensive support and treatment for individuals who are the highest utilizers of mental health and criminal justice systems.

Dr. Waddell is an Associate Professor in the OHSU-PSU School of Public Health and the OHSU School of Medicine. She serves as a research partner with Community Corrections on our federally-funded grant projects. IMPACTS is the first state-funded program partnership between Community Corrections and Dr. Waddell. She will assist Clackamas County in building a client database that will allow multiple agencies and organizations to input the dates of client contacts, which will allow Community Corrections to track clients while they are enrolled in IMPACTS. Contacts might include behavioral health specialists, housing agencies, case managers, or peer mentors. This will allow probation/parole officers follow up with clients if they disengage with their treatment.

The database will assist in evaluation and reporting on the effectiveness of the program.

#### **Deliverables:**

OHSU will deliver to CCCC the following deliverables:

List:

- Client database
- Training materials for the database

Description of Deliverables:

**Qualtrics-based client database.** This database will be owned by CCCC and will serve as a template for other client or caseload databases.

**Training materials for users of database.** Illustrated instructions will be accessible to probation/parole officers, agencies, and organizations who use the database.

Due Date or Estimated Duration:

December 30, 2021 for implementation of database.

Dr. Waddell will remain available for database consultation throughout the duration of the grant and reporting period (June 30, 2022).

**Milestones:**

1. Assist in database design;
2. Create training materials
3. Assist in training and technical support for database consultation
4. Consult on reporting or evaluation issues that arise during the grant program

Tasks/Milestones Responsible Party:

Estimated Completion Date:

Database will be complete by September, 2021

Training materials will be complete by October, 2021

Training and technical support for database users will be ongoing for the life of the grant

Training and technical support for reporting and evaluation will be ongoing for the life of the grant

**Miscellaneous:**

**Fees:**

Payment for Services performed can be defined in various ways, such as fixed fee, hourly rate or a set rate structure. Payments must be tied to tasks or deliverables. Define how fees will be structured and the maximum amount to be paid under this contract:

**Payment Schedule:**

Quarter 1 = July-Sept 2021	\$5,842.00
Quarter 2 = Oct-Dec 2021	\$5,842.00
Quarter 3 = Jan-Mar 2022	\$5,842.00
Quarter 4 = Apr-Jun 2022	\$5,842.00

Total Subcontract Amount: \$23,368 (\$17,703 Directs + \$5,665 F&A)





Capt. Malcolm McDonald  
Director

**CLACKAMAS COUNTY COMMUNITY CORRECTIONS**  
 1024 MAIN STREET • OREGON CITY • OREGON • 97045  
 TELEPHONE 503-655-8603 • • • FAX 503-650-8942

November 4, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of Sub-Recipient Agreement # 20-024 Amendment 1 No-Cost Extension between Clackamas County Community Corrections (CCCC) and Sub-Recipient Oregon Health and Science University (OHSU) for System-Level Diversion Strategies

<b>Purpose/Outcome</b>	Community Corrections would like to establish alternatives to incarceration for individuals with opioid use disorders.
<b>Dollar Amount and Fiscal Impact</b>	N/A
<b>Funding Source</b>	US Department of Justice - no general funds are involved
<b>Duration</b>	December 01, 2019 – September 30, 2022
<b>Previous Board Action/Review</b>	Sub-Recipient Agreement #20-024 approved February 24, 2020 Discussed at issues November 2, 2021
<b>Strategic Plan Alignment</b>	Provide supervision, resources, intervention, and treatment services. Ensure Safe, Healthy and Secure Communities
<b>Contact Person</b>	Captain Malcolm McDonald, Director, Community Corrections – 503-655-8717

**BACKGROUND:** Clackamas County Community Corrections received a cooperative agreement from the Department of Justice Office of Justice Programs in support of the development of testing of programs to help divert individuals from jail who are affected by opioid use disorder (OUD).

As research partner, OHSU will assist CCCC with developing and implementing effective strategies to address the OUD problem. OHSU will conduct analysis of implemented strategies.

The Amendment 1 for Agreement 20-024 specifies that the funds will be available for eligible costs beginning on December 1, 2019 and, with the no-cost extension, ending on September 30, 2022.

**RECOMMENDATION:** Community Corrections respectfully requests that the Board of County Commissioners approve Sub-Recipient Grant Agreement 20-024 Amendment 1 between Clackamas County Community Corrections and Oregon Health and Science University to provide system-level diversion strategies for individuals with opioid use disorders.

Respectfully submitted,

Captain Malcom McDonald  
Director, Community Corrections

Subrecipient Amendment (FY 21-22)  
Clackamas County-Community Corrections

Subrecipient Agreement Number: 20-024

Board Order Number: 2/11/20

Department/Division: Community Corrections

Amendment No. 1

Subrecipient: OHSU

Amendment Requested By: Judy Anderson-Smith

Changes:  Scope of Service  
 Agreement Time

Agreement Budget  
( ) Other:

**Justification for Amendment:**

The project is a collaboration of Clackamas County Community Corrections and OHSU. A main goal of the project is to more efficiently and effectively address the growing problem of opioid use in Clackamas County, with special focus on diversion of opioid use disorder (“OUD”)-involved “high frequency” utilizers across systems (i.e., justice, healthcare, social services) to reduce opioid use and its impacts, including recidivism.

Due to COVID, there was limited activity on our project during FY 20-21

**This amendment extends the agreement term to September 30, 2022 through a no-cost extension.**

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:**

**1. Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse subrecipient for expenses approved in writing by County relating to the project incurred no earlier than **December 01, 2019** and not later than **September 30, 2021**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.

**TO READ:**

**1. Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse subrecipient for expenses approved in writing by County relating to the project incurred no earlier than **December 01, 2019** and not later than **September 30, 2022**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.

**SUBRECIPIENT**

By: Mark Derby  
Mark Derby, Grants & Contracts Administrator  
OHSU

9/22/2021  
Dated

**CLACKAMAS COUNTY**

- Commissioner: Tootie Smith, Chair
- Commissioner: Sonya Fischer
- Commissioner: Paul Savas
- Commissioner: Martha Schrader
- Commissioner: Mark Shull

**County Signatures:**

\_\_\_\_\_  
Tootie Smith, Chair  
On Behalf of the Board of County Commissioners

\_\_\_\_\_  
Dated

Approved to Form:

\_\_\_\_\_  
County Counsel

\_\_\_\_\_  
Dated



**CLACKAMAS COUNTY COMMUNITY CORRECTIONS**  
**1024 MAIN STREET • OREGON CITY • OREGON • 97045**  
**TELEPHONE 503-655-8603 • • • FAX 503-650-8942**

Capt. Malcolm McDonald  
 Director

November 4, 2021

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement No. 6153 and Biennial Plan between the State of Oregon Department of Corrections and Clackamas County Community Corrections

<b>Purpose/Outcome</b>	This IGA will provide funding for Community Corrections programs for the 2021-2023 biennium
<b>Dollar Amount and Fiscal Impact</b>	\$16,119,747 Grant-in-Aid State of Oregon Grant-in-Aid dollars make up approximately 53.3% of the Community Corrections revenues
<b>Funding Source</b>	State of Oregon Department of Corrections, Grant-in-Aid Funding, No General Funds are involved
<b>Duration</b>	July 1, 2019-June 30, 2021
<b>Previous Board Action/Review</b>	2019-2021 Biennial approval
<b>Counsel Review</b>	10/02/2019
<b>Procurement Review</b>	No - Item is an IGA
<b>Strategic Plan Alignment</b>	Provide supervision, resources, intervention, and treatment services. Ensure Safe, Healthy and Secure Communities
<b>Contact Person</b>	Captain Malcolm McDonald, Director, Community Corrections – 503-655-8717

**BACKGROUND:** This IGA is required for any county receiving Community Corrections funds. It adopts Community Corrections Biennial Plan for 2021-2023. The Plan details Community Corrections’ priorities, goals, and budget for the 2021-2023 biennium. The Local Public Safety Coordinating Council (LPSCC) approved the Plan for submission to the State on October 11, 2021. Approval of this IGA allows for continuation of the current Community Corrections programs.

**RECOMMENDATION:** Community Corrections respectfully requests that the Board of County Commissioners approve Intergovernmental Agreement No. 6153 and the Biennial Plan between Clackamas County and the State of Oregon Department of Corrections, for the 2021-2023 Grant-in-Ad funding of Community Corrections.

Respectfully submitted,

Captain Malcolm McDonald  
 Director, Community Corrections

**INTERGOVERNMENTAL AGREEMENT #6153  
BETWEEN THE STATE OF OREGON AND CLACKAMAS COUNTY**

This Intergovernmental #6153 (Agreement) is between the State of Oregon acting by and through its Department of Corrections, hereafter called DEPARTMENT, and Clackamas County, hereafter called COUNTY.

Whereas, DEPARTMENT is an agency of the State of Oregon and COUNTY is a unit of local government of the State of Oregon and both parties desire to cooperate by agreement to provide correctional services in COUNTY within the requirements as authorized by ORS 423.475 to 423.565;

Whereas, the Legislative Assembly of Oregon enacted legislation establishing shared responsibility between county corrections programs and the Department on a continuing basis (ORS 423.475 to 423.565);

Whereas, ORS 144.106 provides “the supervisory authority shall use a continuum of administrative sanctions for violations of post-prison supervision”;

Whereas, ORS 144.334 provides that the Board of Parole and Post-Prison Supervision may authorize issuance of citations by supervising officers;

Whereas, ORS 144.343 provides that the Board of Parole and Post-Prison Supervision may delegate the authority to impose sanctions as provided in ORS 144.106 and to continue a violator on parole or post-prison supervision with the same or modified conditions;

Whereas, ORS 423.478(2)(a) - (f) assigns responsibility for all offenders on probation, parole, post-prison supervision and those offenders sentenced or revoked for periods of one year or less, and on conditional release to COUNTY;

Whereas, ORS 137.545 and 137.595 provide that courts may delegate the authority to parole/probation officers to impose sanctions for probationers through a system of Structured Sanctions; and

Whereas, ORS 423.555 requires DEPARTMENT, with cooperation from COUNTY, to establish and operate a Statewide Evaluation and Information System and to monitor effectiveness of corrections services provided to criminal offenders under ORS 423.500 to 423.560.

Now, therefore, THE PARTIES HERETO, in consideration of the mutual promises, terms and conditions hereinafter provided, agree to the following:

## I. DEFINITIONS

- A. Amendment: Any change to this Agreement that alters the terms and conditions of the Agreement, effective only after all parties have signed and all approvals have been obtained. Plan Modifications are **NOT** Amendments.
- B. Budget Summary: The part of the County Corrections Plan that reflects the amount of County Corrections Grant funds granted by DEPARTMENT to COUNTY to implement the programs in the Plan. The Budget Summary is attached to this Agreement as Exhibit A.
- C. Community Corrections Manager: Individual designated by COUNTY pursuant to ORS 423.525 as responsible for administration of the community corrections programs as set forth by the Plan.
- D. County Corrections: All County agencies and officials who carry out the responsibilities in ORS 423.478(2)(a)-(f) and the activities of carrying out those responsibilities.
- E. County Community Corrections Plan or Plan: A document developed by the Local Public Safety Coordinating Councils and adopted by COUNTY's governing body pursuant to ORS 423.525 and 423.535 and received by DEPARTMENT's director or designee.
- F. County Community Corrections Plan Modification: A written change or alteration to the County Corrections Plan promulgated by COUNTY modifying the Plan subject to ORS 423.525, effective upon the date the written change or alteration has been submitted to the DEPARTMENT representative under this Agreement.
- G. County Community Corrections Grant: Grant(s) made by DEPARTMENT to assist COUNTY in the implementation and operation of county corrections programs including, but not limited to, preventive or diversionary correctional programs, probation, parole, post-prison supervision work release and local correctional facilities and programs for adults on supervision.
- H. Adults on Supervision (AOS): Any person under supervision who is on parole, post-prison supervision, transitional leave, work release, local control, and/or probation status.
- I. Sanctions or Structured Sanctions: A response to adult on supervision violations of conditions of supervision that uses custody units.

- J. Statewide Evaluation and Information System: The Corrections Information Systems (CIS) including the Offender Profile System (OPS), the Integrated Supervision Information System (ISIS), Case Management for Institutions (CMI), Offender Management System (OMS), Offender Information System (OIS), Interstate Compact Offender Tracking System (ICOTS), and related case management modules.
- K. Supervisory Authority: The local corrections official or officials designated in each COUNTY by that COUNTY's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.

## II. AUTHORITY AND DURATION

### A. Authority

This Agreement is entered into pursuant to the provisions of ORS 423.520, ORS 423.530 and 423.535.

### B. Duration

This Agreement will become effective on **July 1, 2021** and will remain in effect until **June 30, 2023** or until terminated according to Section X, captioned TERMINATION.

## III. PLAN; PLAN MODIFICATIONS

- A. County Community Corrections Plan: COUNTY will create a County Community Corrections Plan meeting the requirements of ORS 423.525 outlining the basic structure of supervision, services, and local sanctions to be applied to adults on supervision sentenced or convicted of felonies and designated drug-related misdemeanors and on supervision in the county. The Plan consists of program descriptions and budget allocations and is included by this reference as part of this Agreement. The Plan must be received and approved by DEPARTMENT before disbursements can be made by COUNTY.
- B. Plan Modifications: COUNTY and DEPARTMENT agree that the Plan must remain a flexible instrument capable of responding to unforeseen needs and requirements. COUNTY may modify the Plan according to ORS 423.525 and the administrative rules thereunder governing the support and development of County Corrections Programs. A copy of all Plan Modifications will be marked in sequence beginning with the designation "Plan Modification 1" and attached to the above-mentioned Plan. DEPARTMENT will notify COUNTY of any concerns about the modification or the need for an amendment within a 30 calendar day period after DEPARTMENT receives the Plan Modification.

- C. Notice of Modification: No Plan Modifications shall take effect until COUNTY gives written notice to DEPARTMENT, in a form approved by DEPARTMENT. DEPARTMENT shall provide to COUNTY an approved form for modifications as soon as practicable after execution of this Agreement.

#### **IV. AMENDMENTS GENERALLY**

The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written Amendment signed by the parties.

#### **V. DUTIES AND RESPONSIBILITIES OF COUNTY**

- A. COUNTY shall assume administrative responsibility for correctional supervision and services within its jurisdiction, as outlined in the Plan.
- B. COUNTY shall designate a Community Corrections Manager.
- C. COUNTY will meet the goals for community corrections in Oregon described below:
  - 1. Reduce Criminal Behavior
    - a. Indicator: recidivism, as measured by arrest, conviction, or incarceration for a new crime within three years from initial admission to probation.
    - b. Indicator: recidivism, as measured by arrest, conviction, or incarceration for a new crime within three years from first release to parole/post-prison supervision.
  - 2. Enforce Court, Board of Parole and Post-Prison Supervision, and Local Supervisory Authority Orders:
    - a. Indicator: the percentage of positive case closures for adults on parole/post-prison supervision.
    - b. Indicator: the percentage of positive case closures for adults on probation.
  - 3. Assist Offenders to Change:
    - a. Indicator: employment rates for adults on supervision.
    - b. Indicator: substantial compliance with treatment requirements.
  - 4. Provide Reparation to Victims and Community
    - a. Indicator: the percentage of restitution and compensatory fines collected, owed to victims.



- b. Indicator: the percentage of community service hours provided by adults on supervision.
  
- D. Except as otherwise provided by the DEPARTMENT's rules or orders, COUNTY will adopt and implement a continuum of administrative sanctions used by DEPARTMENT and the Board of Parole and Post-Prison Supervision for violators of conditions of probation, parole and post-prison supervision as authorized by ORS 144.106, 144.334, 144.343 and 137.540 and the rules thereunder. COUNTY will manage local control post-prison supervision in accordance with the rules and practices of the Board of Parole and Post-Prison supervision.
  
- E. COUNTY will follow the Oregon Administrative Rules (OAR's) applicable to community corrections, including but not limited to the following:
  - 1. Computerized Information System Access and Security OAR 291-005-0005 through 291-005-0075.
  - 2. Case Transfer, OAR 291-019-0100 through OAR 291-019-0160.
  - 3. Searches, OAR 291-028-0100 through OAR 291-028-0115.
  - 4. Community Corrections Programs, OAR 291-031-0005 through OAR 291-031-0360.
  - 5. Pre-sentence Investigation, OAR 291-038-0005 through 291-038-0060.
  - 6. Structured, Intermediate Sanctions OAR 291-058-0010 through OAR 291-058-0070.
  - 7. Short-term Transitional Leave, OAR 291-063-0100 through 291-063-0140.
  - 8. Records Management, OAR 291-070-0100 through OAR 291-070-0140.
  - 9. Community Case Management, OAR 291-078-0005 through OAR 291-078-0031.
  - 10. Admission, Sentence Computation and Release, OAR 291-100-0005 through OAR 291-100-0160.
  - 11. Interstate Compact, OAR 291-180-0106 through OAR 291-180-0275.
  - 12. Sex Offenders, Special Provisions, OAR 291-202-0010 through 291-202-0130.
  - 13. Active and Inactive Probation, OAR 291-206-0005 through 291-206-0030.
  - 14. Earned Discharge, OAR 291-209-0010 through 291-209-0070.
  - 15. Dangerous Offenders, OAR Chapter 255, Divisions 36 and 37.
  - 16. Release to Post-Prison Supervision or Parole and Exit Interviews, OAR Chapter 255, Division 60.
  - 17. Conditions of Parole and Post-Prison Supervision, OAR Chapter 255, Division 70.
  - 18. Procedures for Response to Parole and Post-Prison Supervision Condition Violations for Offenders Under the Jurisdiction of the

Board of Parole and Post-Prison Supervision or Local Supervisory Authority, OAR Chapter 255, Division 75.

19. Active and Inactive Parole and Post-Prison Supervision, OAR Chapter 255, Division 94.
  20. Archiving, OAR Chapter 166.
- F. COUNTY will follow all applicable Federal and State civil rights laws including, but not limited to:
1. Federal Code, Title 5 USCA 7201 et seq. - Anti-discrimination in Employment.
  2. Oregon Statutes, Enforcement of Civil Rights: ORS 659A.009, 659A.006, and 659A.030.
  3. Americans with Disabilities Act.
- G. COUNTY will prepare and furnish such data, descriptive information and reports as may be requested by DEPARTMENT as needed to comply with ORS 423.520, which states in part, "The department shall require recipients of the grants to cooperate [. . .] in the collection and sharing of data necessary to evaluate the effect of community corrections programs on future criminal conduct." COUNTY will enter data into the Statewide Evaluation and Information Systems in a complete, accurate, and timely manner. COUNTY agrees to, and does hereby grant DEPARTMENT the right to reproduce, use and disclose all or any part of such reports, data and technical information furnished under this Agreement.
- H. COUNTY will permit authorized representatives of DEPARTMENT to make such review of records of COUNTY as may be necessary to satisfy audit or program review purposes. A copy of any audit or monitoring report will be made available to COUNTY.
- I. COUNTY will follow DEPARTMENT prescribed allotment and expenditure reporting system and shall provide this information on each discrete program in the COUNTY Corrections Plan. This system will be used for controlling County Corrections Grant funds by DEPARTMENT and to provide suitable records for an audit. COUNTY will make available to the DEPARTMENT copies of its annual audit report required by ORS 297.425.
- J. If funding from DEPARTMENT is reduced or discontinued by legislative action, COUNTY will not be required to increase use of COUNTY revenue for continuing or maintaining corrections services as set out in this Agreement. If funding is reduced below the amount set out in ORS 423.483, the County may elect to terminate pursuant to Section X, below.
- K. COUNTY will participate in all of the systems that comprise the Statewide Evaluation and Information Systems. COUNTY will enter and keep

current information on adults on supervision in the Law Enforcement Data System (LEDS) Enter Probation Record (EPR) System.

- L. COUNTY will retain responsibility for cases transferred to and accepted by another state under the terms of the Interstate Compact for Adult Offender Supervision, an agreement among states to provide supervision services for parole, post-prison, and probation adults on supervision that relocate to other states per ORS 144.610 and OAR 291-180-0106 through 291-180-0275.
- M. COUNTY will comply with ORS 182.515-182.525. Programs identified by the Community Corrections Commission and receiving any state grant funds shall be evidence based. Evidence based programs are delivered consistent with the findings in research about what works best to reduce recidivism.

## **VI. DEPARTMENT RESPONSIBILITIES**

- A. DEPARTMENT will furnish to COUNTY, in a timely manner, those procedures, directives, records, documents and forms required for COUNTY to meet its obligations.
- B. Subject to system capacity and data processing capabilities, DEPARTMENT will furnish data, descriptive information and reports, available to DEPARTMENT and requested by COUNTY that will assist COUNTY in complying with DEPARTMENT requirements. This data includes, but is not limited to, details regarding outcomes noted in Subsection V(C). DEPARTMENT hereby grants to COUNTY the right to reproduce, use, and disclose all or part of such reports, data, and technical information furnished under this Agreement.
- C. DEPARTMENT agrees to provide COUNTY an opportunity to review and comment on all new or revised administrative rules that have fiscal or programmatic impact on COUNTY.
- D. If by legislative action, funding from DEPARTMENT is reduced to COUNTY, DEPARTMENT agrees to provide reasonable notice and transition opportunity to COUNTY of changes that may significantly alter approved appropriations and programs.
- E. If COUNTY ceases to participate in County Corrections programs as described in ORS Chapter 423, DEPARTMENT may recover title and possession to property previously transferred to COUNTY or purchased by COUNTY with County Corrections Grant funds.

- F. DEPARTMENT grants to COUNTY continual access to the DEPARTMENT's computer system at no charge to COUNTY. All costs (including but not limited to any equipment or software upgrades) to ensure this access; however, is the responsibility of COUNTY. If DEPARTMENT's computer is used in any way other than for pass-through of COUNTY data to the DEPARTMENT's system, COUNTY will provide support for additional activities. DEPARTMENT will provide timely notification and technical assistance when changes are made that impact applicable restrictions on the software, if any. If COUNTY uses DEPARTMENT's data circuits or network connections to access a third party jail management system, the terms of the attached Exhibit B apply. If DEPARTMENT determines that COUNTY has not complied with the terms of Exhibit B, DEPARTMENT may immediately suspend COUNTY access to DEPARTMENT's computer system.
- G. DEPARTMENT's Community Corrections Division will administer the provisions of the Interstate Compact for Adult Offender Supervision, an agreement among states to provide supervision services for adults on parole, under post-prison supervision, and on probation that relocate to other states per ORS 144.610 and OAR 291-180-0106 through 291-180-0275.
- H. DEPARTMENT will provide technical assistance to COUNTY in implementing and evaluating COUNTY's Plan.
- I. DEPARTMENT will provide technical assistance to COUNTY on changes in Oregon Statutes and Oregon Administrative Rules.

## **VII. FUNDS**

- A. The Budget Summary, Exhibit A, lists the County Corrections Grant funds authorized under this Agreement for the implementation of the Plan during the term of this Agreement.
- B. The Plan and this fully executed Agreement must be received by the DEPARTMENT from the COUNTY. After receipt of both the Plan and the executed Agreement, DEPARTMENT will authorize payments to the COUNTY as scheduled in this Section VII.
- C. The first payment to COUNTY will occur as soon as possible after the DEPARTMENT's budget is legislatively approved and implemented and quarterly thereafter.
- D. The DEPARTMENT will disburse to COUNTY one eighth of the County Correction Grant Funds authorized under this Agreement within 15 days of

each of the following dates; 7/1/21, 10/1/21, 1/1/22, 4/1/22, 7/1/22, 10/1/22, 1/1/23, and 4/1/23.

DEPARTMENT's obligation to disburse County Correction Grant Funds is subject to satisfaction, on the date of each disbursement, of each of the following conditions:

1. COUNTY is in compliance with all terms and conditions of this Agreement;
  2. This Agreement has not been terminated; and
  3. DEPARTMENT has received funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow DEPARTMENT, in the exercise of its reasonable administrative discretion, to make the disbursement.
- E. Both parties agree that all reallocations of funds between or within programs shall require a County Community Corrections Plan Modification, except that COUNTY may reallocate up to ten percent of funds in any budget category in the approved Plan between or within programs without a County Community Corrections Plan Modification. COUNTY shall notify DEPARTMENT in writing of such reallocation within 30 days after making the reallocation.
- F. Unexpended Funds: Fund balances remaining at the termination of this agreement may be retained by the COUNTY, upon approval by the DEPARTMENT, for the provision of on-going supervision, correctional services, and sanctions in accordance with the Plan.
- G. Supervision fees collected by COUNTY will be used to offset costs of supervising the probation, parole, post-prison supervision or other supervised release pursuant to ORS 423.570 and its administrative rules, as amended from time to time.
- H. Unauthorized Expenditures: Any County Corrections Grant Funds expended for unauthorized purposes will be deducted by DEPARTMENT from subsequent payments under this Agreement or refunded to DEPARTMENT upon request.
- I. For purposes of the delivery of field corrections services, DEPARTMENT recognizes COUNTY as an ongoing partner for all County Corrections appropriations provided by the State of Oregon Legislature according to ORS 423.475 to 423.565.

- J. Funding for Sexually Violent Dangerous Offenders: After receipt and review of an invoice from the COUNTY, DEPARTMENT will reimburse COUNTY at the daily rate established by the DEPARTMENT for the intensive supervision of adults on supervision designated as sexually violent dangerous offenders by the Court or Board of Parole and Post-Prison Supervision only from the amount specifically appropriated for the increased level of supervision of such adults on supervision.
- K. In the event that the COUNTY retains funds to spend in the next biennium under Subsection VII(F), then Subsections VII (D)-(G) and (I)-(J) will survive termination or expiration of this Agreement.

## **VIII NONCOMPLIANCE**

- A. The Assistant Director of Community Corrections or the Assistant Director's designee shall annually review COUNTY's compliance with this Agreement under ORS 423.500 to 423.560. COUNTY must substantially comply with the provisions of the Plan received by DEPARTMENT and this Agreement.
- B. If, upon review, DEPARTMENT determines that there are reasonable grounds to believe that COUNTY is not in substantial compliance with this Agreement or Plan, DEPARTMENT shall contact COUNTY regarding the alleged noncompliance and offer technical assistance to reach compliance. If COUNTY does not resolve the alleged noncompliance, DEPARTMENT shall, after giving COUNTY not less than 30 calendar days' notice, conduct a hearing to ascertain whether there is substantial compliance or satisfactory progress being made toward compliance. After technical assistance, which may include peer review or other assistance, is provided and the hearing occurs, DEPARTMENT may suspend any portion of the funding made available to COUNTY under ORS 423.500 to 423.560 until County complies as required.
- C. In the event that a dispute arises, COUNTY may appeal to the Director of the Department of Corrections.

## **IX INDEMNIFICATION See Exhibit C**

## **X TERMINATION**

- A. It is understood and agreed by the parties hereto that this Agreement will remain in force only during its term and will not continue in force after its term. There will be no automatic extension, but this Agreement may be extended only by written Amendment.

- B. It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement, including any part, term or provision of any appended material, is held by a court to be illegal or in conflict with any law of the State of Oregon or applicable administrative rule, that element of this Agreement including relevant appended materials will be void and without effect and will be treated by the parties as having been terminated as of the date of determination of the voidness.
- C. If COUNTY chooses to discontinue participation in the Plan as described in this Agreement and ORS 423.483(2), COUNTY may terminate participation at the end of any month by delivery of written notification to the DEPARTMENT's Director or the Director's designee not less than 180 calendar days before the date on which COUNTY intendsto discontinue its participation. Termination of COUNTY participation may occur only at the end of a month. This Agreement will terminate on the same date that COUNTY discontinues its participation in the Plan.
- D. If COUNTY terminates participation, the following will apply:
1. The responsibility for correctional services transferred to COUNTY and any unused County Corrections Grant funds will revert to DEPARTMENT.
  2. In no case does responsibility for supervision and provision of correctional services to non-designated drug-related misdemeanor adults on supervision revert to DEPARTMENT.
- E. It is understood and agreed by the parties hereto that this Agreement will automatically terminate if the State of Oregon fails to provide any funding. If there is reduced state funding as described in ORS 423.483, County may terminate the Agreement as described herein.

## **XI COMPLIANCE WITH APPLICABLE LAW**

Both Parties shall comply with all federal, state and local laws, regulations, executive orders, and ordinances to which each is subject and which is applicable to this Agreement. Without limiting the generality of the foregoing, the parties expressly agree to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to those laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. DEPARTMENT's performance under this Agreement is conditioned upon COUNTY's compliance with the provisions of ORS 279B.220, 279B.230, 279B.235 and 279B.270, as amended from time to time, which are made applicable to this

Agreement and incorporated herein by this reference. All employers, including COUNTY, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. COUNTY shall ensure that each of its subcontractors complies with these requirements.

Nothing in this Agreement shall require County or Department to act in violation of state or federal law or the Constitution of the State of Oregon.

## **XII ACCESS TO RECORDS**

For not less than six (6) years after Agreement expiration or termination, DEPARTMENT, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers and records of COUNTY which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts. COUNTY shall retain all pertinent records until the later of: (i) the date that is not less than six (6) years following the Agreement expiration or termination date or (ii) the date on which all litigation regarding this Agreement is resolved. COUNTY agrees that full access to DEPARTMENT will be provided in preparation for and during litigation and that copies of applicable records shall be made available upon request and payment by DEPARTMENT for the COUNTY's cost to produce the copies.

## **XIII SURVIVAL**

All rights and obligations shall cease upon termination or expiration of this Agreement, except for the rights and obligations set forth in Sections IV, IX, X, XI, XII, XIII, and XIV.

## **XIV GOVERNING LAW; JURISDICTION; VENUE**

The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

## **XV WAIVER**

The failure of either party to enforce any provision of this Agreement will not constitute a waiver by that party of that or any other provision.



**XVI EXECUTION AND COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which will be an original, all of which will constitute but one and the same instrument.

**XVII MERGER; INTEGRATION**

This instrument contains the entire agreement between the parties and no statement made by any party hereto, or agent thereof, not contained or attached with reference thereto in this written agreement will be valid or binding. This Agreement will supersede all previous communications, representations, whether verbal or written, between the parties hereto. This Agreement may not be enlarged, modified or altered except in writing, signed by the parties, and attached.

STATE OF OREGON  
DEPT. OF CORRECTIONS

CLACKAMAS COUNTY  
BOARD OF COMMISSIONERS

\_\_\_\_\_  
Toni Payseno, Designated Procurement  
Officer

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved for Legal Sufficiency  
Oregon Attorney General's Office:

/s/ Sam Zeigler per email dated 5/4/21  
Assistant Attorney General

**EXHIBIT A**

**BUDGET SUMMARY  
CLACKAMAS COUNTY  
(to be added by DEPARTMENT after  
COUNTY submission of the County Corrections Plan)**

## **EXHIBIT B**

### CLACKAMAS COUNTY

#### NETWORK ACCESS BY COUNTY

1. COUNTY jail users will be permitted to use existing DEPARTMENT data circuits to access third party systems. Access is permitted for jail management system application users only. COUNTY jail users will not be permitted to use DEPARTMENT circuits for video conferencing, Real Audio, Internet access, applications that require large amounts of bandwidth, or other jail management software online service or system unless approved by DEPARTMENT. COUNTY jail users will be permitted to use DEPARTMENT's data circuits for video image transmissions using a NIST standard (available from DEPARTMENT upon request).

- A. All network traffic covered by this agreement will employ TCP/IP network protocols.
- B. DEPARTMENT will continue its policy of only providing one router to each county. This means that if COUNTY's jail and the parole and probation office are located in separate buildings, COUNTY will be responsible for providing a connection between the two buildings.

2. COUNTY understands and acknowledges that DEPARTMENT is subject to the public records provision of ORS 192.311 through 192.478 and other applicable laws and administrative rules which establish uniform guidelines and procedures for the release of information from DEPARTMENT's computer system.

**EXHIBIT C  
CONTRIBUTION  
CLACKAMAS COUNTY**

**Contribution**

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

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

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

## **Alternative Dispute Resolution**

The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

## **Indemnification by Subcontractors**

County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

## **Subcontractor Insurance Requirements**

### **GENERAL**

County shall require its first tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between County and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to County. County shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a contractor to work under a Subcontract when the County is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

## **TYPES AND AMOUNTS**

### **PROFESSIONAL LIABILITY**

Professional Liability Insurance covering any damages caused by an error, omission or negligent act related to the services to be provided under the Subcontract, with limits not less than \$2,000,000, as determined by the Department:

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

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

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

**2021 - 2023  
CLACKAMAS COUNTY  
SHERIFF'S OFFICE**



**Community Corrections Division  
Biennial Plan**

# TABLE OF CONTENTS

<b>2021-2023 PLAN COVER SHEET .....</b>	<b>3</b>
<b>APPROVALS</b>	
<b>Local Public Safety Coordinating Council.....</b>	<b>4</b>
<b>ORGANIZATIONAL CHARTS</b>	
<b>Reintegration .....</b>	<b>6</b>
<b>Community Coordination .....</b>	<b>8</b>
<b>PROGRAM DESCRIPTIONS</b>	
<b>Residential Treatment &amp; Counseling .....</b>	<b>10</b>
<b>Parole &amp; Probation Supervision .....</b>	<b>11</b>
<b>Mental Health Services &amp; Housing .....</b>	<b>13</b>
<b>Sex Offender Services .....</b>	<b>14</b>
<b>Victim Services.....</b>	<b>16</b>
<b>Pretrial Services.....</b>	<b>17</b>
<b>Community Service.....</b>	<b>18</b>
<b>Office of the Director .....</b>	<b>19</b>
<b>Operational Support .....</b>	<b>20</b>
<b>Employee Development &amp; Training.....</b>	<b>21</b>
<b>BUDGET SUMMARY .....</b>	<b>23</b>



## Clackamas County 2021-2023 Community Corrections Biennial Plan

Department of Corrections 2575 Center Street NE Salem, Oregon 97301-4667	<i>For Office Use Only</i>  Date Received:
Address: 1024 Main Street, Oregon City, OR 97045 Phone: 503-655-8745      Fax: 503-650-8942	
Community Corrections Director/Manager: Captain Malcolm McDonald Address: 1024 Main Street, Oregon City, OR 97045 Phone: 503-655-8717      Fax: 503-650-8942      Email: MalcolmMcD@clackamas.us	
Sheriff: Angela Brandenburg Address: 9101 SE Sunnybrook Blvd, Clackamas, OR 97015 Phone: 503-785-5000      Fax: 503-785-5035      Email: jmorrison@clackamas.us	
Jail Manager: Captain Lee Eby Address: 2203 Kaen Rd, Oregon City, OR 97045 Phone: 503-722-6760      Fax:      Email: LeeEby@clackamas.us	
Supervisory Authority: Captain Malcolm McDonald Address: 1024 Main Street, Oregon City, OR 97045 Phone: 503-655-8717      Fax: 503-650-8942      Email: MalcolmMcD@clackamas.us  Supervisory Authority: Address: Phone:      Fax:      Email:	
LPSCC Contact: Malcolm McDonald Address: 1024 Main Street, Oregon City, OR 97045 Phone: 503-655-8717      Fax:      Email: MalcolmMcD@Clackamas.us	
<b><u>Biennial Budget</u></b>	
State Grant-in-Aid Fund:	<u>\$16,119,747.00</u>
DOC M57 Supplemental Fund:	<u>\$663,456.00</u>
CJC Justice Reinvestment Grant:	<u>                    </u>
CJC Treatment Court Grant:	<u>                    </u>
County General Fund:	<u>\$9,864,655.00</u>
Supervision Fees:	<u>                    </u>
Biennial Carryover (GIA, M57, FSAPP):	<u>\$979,300.00</u>
Other Fees:	<u>\$86,300.00</u>
Other State or Federal Grant:	<u>\$2,138,150.00</u>
Other:	<u>\$378,064.00</u>
<b><u>Total:</u></b>	<b><u>\$30,229,672.00</u></b>



## Local Public Safety Coordinating Council

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**Director Malcolm McDonald, Chair**  
**Chief John Schmerber, Vice-Chair**

October 11, 2021

Clackamas County Board of Commissioners  
Public Services Building  
2051 Kaen Road  
Oregon City, Oregon 97045-4035

Dear Commissioners:

The Clackamas County Local Public Safety Coordinating Council is pleased to submit the Community Corrections Biennial Plan for 2021-2023. The Plan was reviewed and unanimously approved by members today.

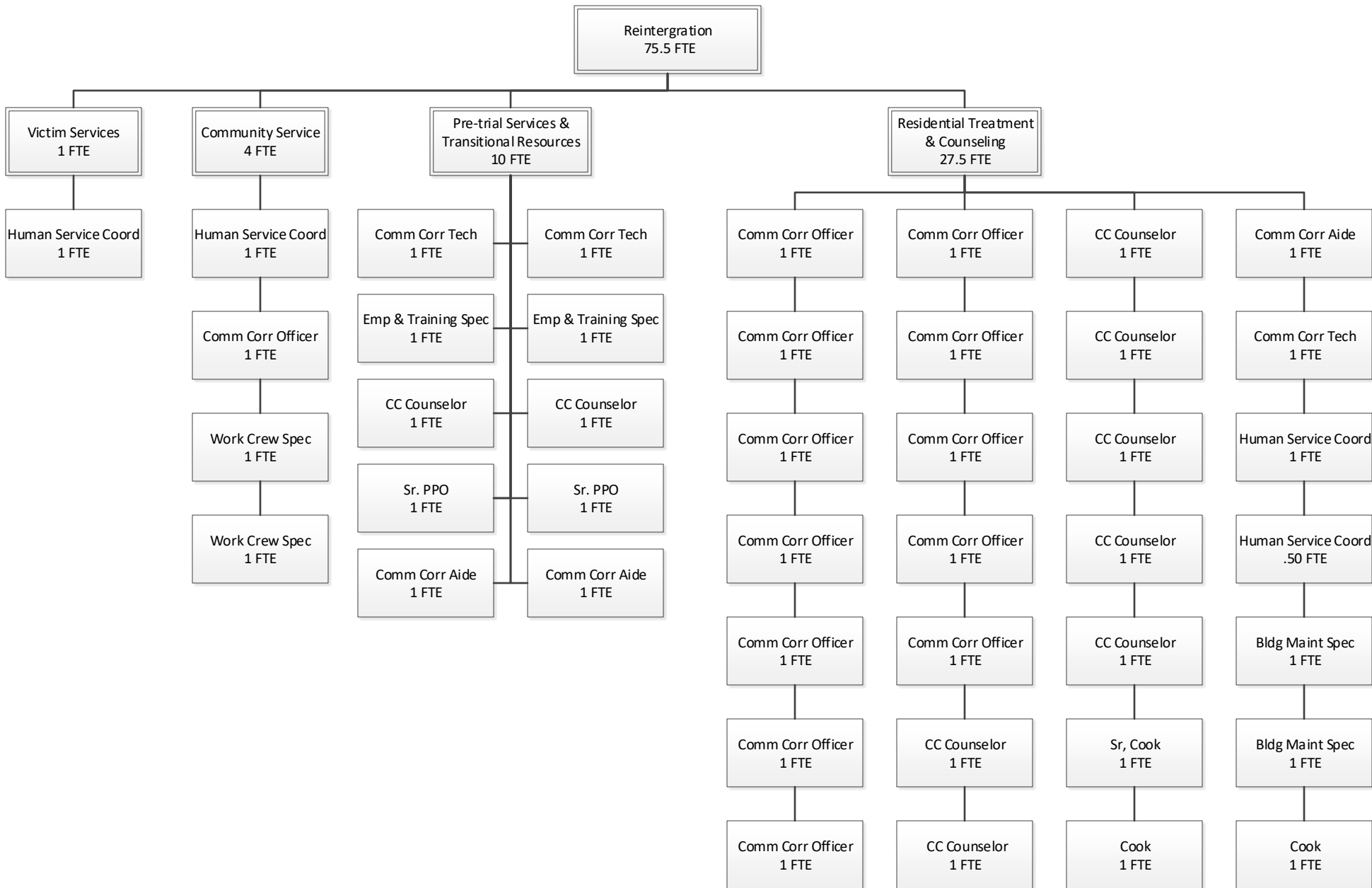
The Plan details Community Corrections priorities for Clackamas County in the upcoming biennium and provides a comprehensive review of all programs. The goal of Community Corrections is to create a continuum of services and sanctions for adult offenders focusing on evidence-based practices.

Sincerely,

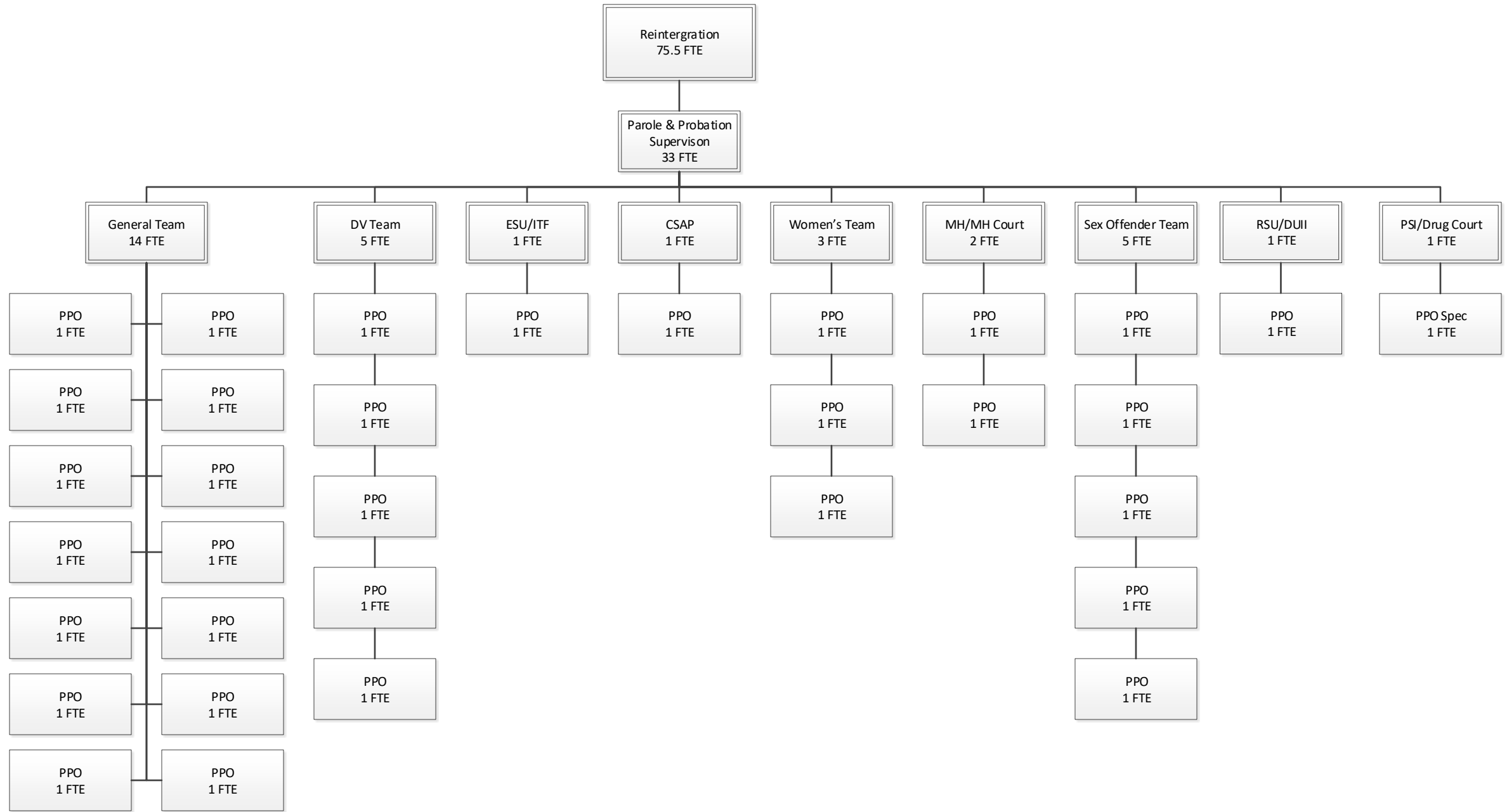
Malcolm McDonald  
Chair, Clackamas County Local Public Safety Coordinating Council

# ORGANIZATIONAL CHARTS

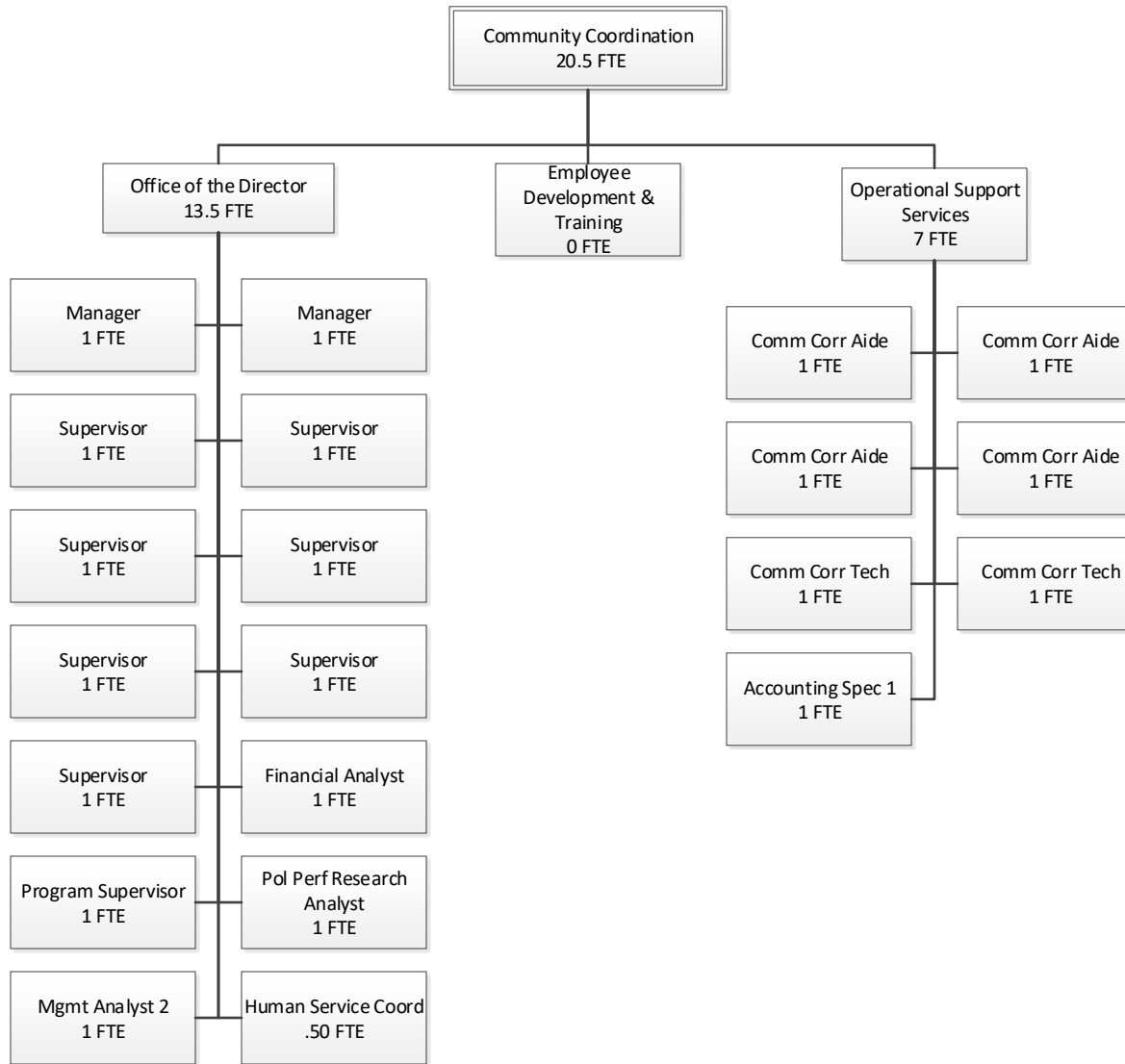
# Clackamas County Community Corrections



# Clackamas County Community Corrections



# Clackamas County Community Corrections



# **PROGRAM DESCRIPTIONS**

Program Name:	Residential Treatment and Counseling Program
Program Description:	The purpose of the Residential Treatment and Counseling Program is to provide guidance, treatment, employment & housing services to clients so they can achieve sustainable, long-term recovery and psychological well-being.
Program Category:	Behavioral Health Tx Services - Substance Abuse
Program Objectives:	Clackamas County residents will experience safer communities as evidenced by: <ul style="list-style-type: none"> <li>• Increase in residential clients who have successfully completed the Clackamas Substance Abuse Program (CSAP) and do not get arrested on a new alcohol or drug charge within one year of completion</li> <li>• Increase in residential clients who are in the labor force and earning a livable wage by the end of supervision</li> <li>• Increase in residential clients who live in stable housing by the end of supervision</li> </ul>
Method(s) of Evaluation:	Annual statistics, CPC audit

Monthly Average to be Served: 70

Type of Offender(s) Served:

- Probation
- Parole/Post-Prison
- Local Control

Crime Category:

- Felony
- Misdemeanor

Gender:

- Male
- Female

Risk Level:

- High
- Medium
- Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>
CSAP	Criminality/Substance Abuse	\$6,939,636.00

Funding Sources

<input checked="" type="checkbox"/> State Grant-In-Aid Fund	\$6,676,180.00
<input checked="" type="checkbox"/> DOC M57 Supplemental Fund	\$663,456.00
<input type="checkbox"/> CJC Justice Reinvestment Grant	_____
<input type="checkbox"/> CJC Treatment Court Grant	_____
<input checked="" type="checkbox"/> County General Fund	\$2,427,484.00
<input type="checkbox"/> Supervision Fees	_____
<input checked="" type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP)	\$265,102.00
<input checked="" type="checkbox"/> Other Fees (revenue)	\$48,500.00
<input checked="" type="checkbox"/> Other State or Federal Grant	\$407,134.00
Other: Please Identify	
<input checked="" type="checkbox"/> Carryover - JRI through 12/31/21	\$166,037.00
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____

Additional Comments:



Program Name:	Parole & Probation Supervision
Program Description:	The purpose of the Parole and Probation Supervision Program is to provide assessment and case planning, counseling, intervention and accountability services to individuals on parole or probation so they can remain in the community without an increased threat to public safety.
Program Category:	Supervision
Program Objectives:	<p>Clackamas County residents will experience safer communities as evidenced by:</p> <ul style="list-style-type: none"> <li>• Reduction in new criminal convictions of Parole and Probation clients within a year following the end of their supervision</li> <li>• Increase in identified alcohol or drug addicted Community Corrections clients who complete substance abuse treatment by the end of supervision</li> <li>• Increase in Community Corrections clients in need of treatment will be provided mental health services.</li> <li>• Increase in Parole and Probation clients evaluated and recommended for Substance Use Disorder treatment who complete substance abuse treatment by the end of supervision</li> <li>• Increase in Victims who are due restitution and receive it</li> </ul> <p>Community Corrections clients will experience their best opportunity for successful, pro-social reintegration into the community as evidenced by:</p> <ul style="list-style-type: none"> <li>• Increase in Parole and Probation clients who are in the labor force and earning a livable wage by the end of supervision</li> <li>• Increase in Parole and Probation clients who live in stable housing by the end of supervision</li> </ul>
Method(s) of Evaluation:	<p>Clackamas County will collect data and report annually on conformance with statewide performance outcomes.</p> <p>Audit and Supervisor Review</p> <p>Monthly and annual statistics</p>

Monthly Average to be Served: 2500

Type of Offender(s) Served:

- Probation  
 Parole/Post-Prison  
 Local Control

Crime Category:

- Felony  
 Misdemeanor

Gender:

- Male  
 Female

Risk Level:

- High  
 Medium  
 Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>
Bridge's to Change	Transitional Housing and Mentorship	\$1,000,000.00

Funding Sources

- State Grant-In-Aid Fund \$5,628,156.00  
 DOC M57 Supplemental Fund \_\_\_\_\_  
 CJC Justice Reinvestment Grant \_\_\_\_\_  
 CJC Treatment Court Grant \_\_\_\_\_  
 County General Fund \$3,179,044.00  
 Supervision Fees \_\_\_\_\_

<input checked="" type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP)	\$236,155.00
<input checked="" type="checkbox"/> Other Fees (revenue)	\$5,800.00
<input checked="" type="checkbox"/> Other State or Federal Grant	\$279,994.00
Other: Please Identify	
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	

Additional Comments:

Program Name:	Probation and Parole Supervision Program: Mental Health Services, and Housing
Program Description:	The PPO that provides supervision of justice involved adults on community supervision for felony and misdemeanor crimes who suffer from mental illness with an Axis I Diagnosis works closely with mental health professionals and medical staff to ensure that clients are receiving mental health treatment and mental health medications. The PPO assists clients in accessing benefits such as Social Security and Medicare and Medicaid. Case planning is focused on community stabilization and transition to self-sufficiency.  This PPO oversees two gender specific transitional houses for offenders with mental illness, Haven House 12 beds for men and Serenity 8 beds for women. Bridges to Change provides a mentor and a case manager to work specifically with these clients.
Program Category:	Supervision
Program Objectives:	<ul style="list-style-type: none"> <li>• Client specific information is shared across departments</li> <li>• Highest risk Community Corrections clients will be given highest priority by the county's mental health treatment system</li> <li>• Community Corrections clients in need of treatment (as determined by assessment or mental health practitioner referral) are provided mental health service</li> </ul>
Method(s) of Evaluation:	Supervisor Review

Monthly Average to be Served: 100

Type of Offender(s) Served:

- Probation  
 Parole/Post-Prison  
 Local Control

Crime Category:

- Felony  
 Misdemeanor

Gender:

- Male  
 Female

Risk Level:

- High  
 Medium  
 Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

- |  |              |
|--|--------------|
| <input checked="" type="checkbox"/> State Grant-In-Aid Fund      | \$139,807.00 |
| <input type="checkbox"/> DOC M57 Supplemental Fund               | _____        |
| <input type="checkbox"/> CJC Justice Reinvestment Grant          | _____        |
| <input type="checkbox"/> CJC Treatment Court Grant               | _____        |
| <input type="checkbox"/> County General Fund                     | _____        |
| <input type="checkbox"/> Supervision Fees                        | _____        |
| <input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP)    | _____        |
| <input type="checkbox"/> Other Fees (revenue)                    | _____        |
| <input checked="" type="checkbox"/> Other State or Federal Grant | \$343,064.00 |
| Other: Please Identify   |              |
| <input type="checkbox"/>   | _____        |
| <input type="checkbox"/>   | _____        |
| <input type="checkbox"/>   | _____        |

Additional Comments: Housing Authority of Clackamas County (HACC) supports housing and services provided to clients residing at Haven and Serenity House.

Program Name:	Parole and Probation Supervision Program: Sex Offender Services
Program Description:	This program provides contracted sex offender treatment services and polygraphs for indigent offenders. All sex offender treatment groups are cognitive-based programs designed to address thinking errors and thereby change behavior. Offenders may be required to pay a portion of the treatment services based on the sliding fee scale. Sex offender treatment services include individual assessment and evaluation, a long-term sex offender treatment group, a shorter-term treatment, an intervention group for non-paraphilic offenders, individual counseling, biofeedback, arousal reconditioning therapy and an aftercare group. In conjunction with regular sex offender treatment, all sex offender treatment providers provide educational sessions that all safety plan supervisors must attend. This is called a chaperone program and it follows a set curriculum that is approved by the sex offender supervision team. Sex offenders attend weekly, bi-weekly and monthly meetings. The length of time in treatment can range from 6 months to 5 years depending on the offender's risk to the community, and their compliance with treatment and other conditions of supervision. All contracted treatment providers must be certified as sex offender treatment providers by the Oregon Association for the Treatment of Sexual Abusers. (OATSA)
Program Category:	Behavioral Health Tx Services - Sex Offender Tx
Program Objectives:	<ul style="list-style-type: none"> <li>• All sex offenders will be evaluated by an approved treatment provider and if recommended for treatment will be referred to treatment.</li> <li>• Participants in sex offender treatment programming will successfully complete or maintain involvement in the program.</li> <li>• Sex offenders will submit to polygraph examination in conjunction with sex offender treatment.</li> <li>• All eligible sex offenders will submit to polygraph examinations in conjunction with sex offender treatment and no more than 25% of the polygraph examinations will produce "deceptive" results.</li> </ul>
Method(s) of Evaluation:	Contract Review of Services

Monthly Average to be Served: 50

Type of Offender(s) Served:

- Probation  
 Parole/Post-Prison  
 Local Control

Crime Category:

- Felony  
 Misdemeanor

Gender:

- Male  
 Female

Risk Level:

- High  
 Medium  
 Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>
Integrated Clinical & Correctional Svc.	Sex Offender Treatment	\$40,000 1yr
Innovative Counseling Enterprises	Sex Offender Treatment	\$30,000 1yr
Wy'east Directions	Sex Offender Treatment	\$86,250 1yr
Conifer Clinical Services	Sex Offender Treatment	\$15,000 1yr

Funding Sources

- State Grant-In-Aid Fund \$237,119.00  
 DOC M57 Supplemental Fund  
 CJC Justice Reinvestment Grant  
 CJC Treatment Court Grant

<input checked="" type="checkbox"/> County General Fund	\$40,000.00
<input type="checkbox"/> Supervision Fees	
<input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP)	
<input type="checkbox"/> Other Fees (revenue)	
<input type="checkbox"/> Other State or Federal Grant	
Other: Please Identify	
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	

Additional Comments: State funding supports treatment and services to Felony Probation and PPS clients.

Program Name:	Victim Services
Program Description:	The purpose of the Victim Services Program is to provide outreach, support, safety planning, advocacy and victim notification services to survivors and victims of crime so they can make informed choices, recover & feel safer.
Program Category:	Other Programs and Services
Program Objectives:	<ul style="list-style-type: none"> <li>• Victims were given information on resources that are available and how to access them</li> <li>• Domestic violence victims who needed domestic violence resources due to intimate partner violence, stalking, or sexual assault were given a referral to the Family Justice Center</li> <li>• Domestic violence victims who use Victim Services and request a no contact order modification complete a safety plan</li> <li>• Victims who complete a safety plan</li> </ul>
Method(s) of Evaluation:	Supervisor review

Monthly Average to be Served: 50

Type of Offender(s) Served:    Crime Category:    Gender:    Risk Level:

<input type="checkbox"/> Probation	<input type="checkbox"/> Felony	<input checked="" type="checkbox"/> Male	<input type="checkbox"/> High
<input type="checkbox"/> Parole/Post-Prison	<input type="checkbox"/> Misdemeanor	<input checked="" type="checkbox"/> Female	<input type="checkbox"/> Medium
<input type="checkbox"/> Local Control			<input type="checkbox"/> Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

- |   |              |
|---|--------------|
| <input checked="" type="checkbox"/> State Grant-In-Aid Fund   | \$59,194.00  |
| <input type="checkbox"/> DOC M57 Supplemental Fund            | _____        |
| <input type="checkbox"/> CJC Justice Reinvestment Grant       | _____        |
| <input type="checkbox"/> CJC Treatment Court Grant            | _____        |
| <input checked="" type="checkbox"/> County General Fund       | \$209,819.00 |
| <input type="checkbox"/> Supervision Fees                     | _____        |
| <input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP) | _____        |
| <input type="checkbox"/> Other Fees (revenue)                 | _____        |
| <input type="checkbox"/> Other State or Federal Grant         | _____        |
| Other: Please Identify  |              |
| <input type="checkbox"/>                                      | _____        |
| <input type="checkbox"/>                                      | _____        |
| <input type="checkbox"/>                                      | _____        |

Additional Comments:

Program Name:	Pretrial Services
Program Description:	The purpose of the Pretrial Services Program is to provide court-appointed monitoring services to defendants who are deemed eligible through evidence-based risk assessment and judicial review so they can return to their homes and communities in a manner that enhances community safety, thus freeing jail resources to focus on highest risk adults in custody.
Program Category:	Other Programs and Services
Program Objectives:	Continued reduction in the percentage of adults in custody at Clackamas County Jail who are classified as forced releases Increase in the number of defendants who are are not charged with a new offense during the pretrial stage Increase in the number of defendants who make all scheduled court appearances
Method(s) of Evaluation:	Annual Statistics

Monthly Average to be Served: 130

Type of Offender(s) Served:

- Probation
- Parole/Post-Prison
- Local Control

Crime Category:

- Felony
- Misdemeanor

Gender:

- Male
- Female

Risk Level:

- High
- Medium
- Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

- State Grant-In-Aid Fund \_\_\_\_\_
  - DOC M57 Supplemental Fund \_\_\_\_\_
  - CJC Justice Reinvestment Grant \_\_\_\_\_
  - CJC Treatment Court Grant \_\_\_\_\_
  - County General Fund \_\_\_\_\_
  - Supervision Fees \_\_\_\_\_
  - Biennial Carryover (GIA, M57, FSAPP) \_\_\_\_\_
  - Other Fees (revenue) \_\_\_\_\_
  - Other State or Federal Grant \_\_\_\_\_
- Other: Please Identify
- Carryover - JRI through 12/31/21 \$462,933.00
  - \_\_\_\_\_
  - \_\_\_\_\_

Additional Comments: JRI carryover funds the continuations of the Pretrial program through December 31, 2021. 2021-2023 JRI funding not yet awarded.

Program Name:	Community Service Program
Program Description:	The purpose of the Community Service Program is to provide sentencing alternative services to justice-involved individuals so they can be accountable for their offense, while remaining in their community and providing cost-effective labor to local municipal partners.
Program Category:	Community Service and Work Crew
Program Objectives:	<ul style="list-style-type: none"> <li>• Increase in Community service clients who attend orientation and successfully complete their hours</li> <li>• Increase in Out-of-custody sanctions who are eligible for community service and receive sanctions in lieu of jail time</li> <li>• Increase in Clackamas County jail bed days not used because client was assigned to or opted for Community Service</li> </ul>
Method(s) of Evaluation:	Annual audit of Community Services Program statistics Contractors provide annual evaluations of service

Monthly Average to be Served: 250

Type of Offender(s) Served:    Crime Category:    Gender:    Risk Level:

<input checked="" type="checkbox"/> Probation	<input checked="" type="checkbox"/> Felony	<input checked="" type="checkbox"/> Male	<input checked="" type="checkbox"/> High
<input checked="" type="checkbox"/> Parole/Post-Prison	<input checked="" type="checkbox"/> Misdemeanor	<input checked="" type="checkbox"/> Female	<input checked="" type="checkbox"/> Medium
<input type="checkbox"/> Local Control			<input checked="" type="checkbox"/> Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

<input type="checkbox"/> State Grant-In-Aid Fund	_____
<input type="checkbox"/> DOC M57 Supplemental Fund	_____
<input type="checkbox"/> CJC Justice Reinvestment Grant	_____
<input type="checkbox"/> CJC Treatment Court Grant	_____
<input checked="" type="checkbox"/> County General Fund	_____ \$614,400.00
<input type="checkbox"/> Supervision Fees	_____
<input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP)	_____
<input checked="" type="checkbox"/> Other Fees (revenue)	_____ \$32,000.00
<input type="checkbox"/> Other State or Federal Grant	_____
Other: Please Identify	
<input checked="" type="checkbox"/> Work Crew Contracts	_____ \$324,419.00
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____

Additional Comments:



Program Name:	Office of the Director
Program Description:	The purpose of the Director's Office Program is to provide leadership, motivation and administrative services to Community Corrections & the Sheriff's Office so they can create a high performing, resilient, and customer-focused culture of innovation.
Program Category:	Administration
Program Objectives:	<ul style="list-style-type: none"> <li>• There will be no overdose deaths among Community Corrections clients</li> <li>• The department will create a communication plan that will provide Clackamas County residents, state and county agencies, and Community Corrections clients with a clear understanding of services provided and consistent updates on departmental progress and outcomes</li> <li>• Community Corrections will have a data sharing agreement in place to share specific information about clients with departments that are relevant to the client's success</li> </ul>
Method(s) of Evaluation:	Results outputs from each division

Monthly Average to be Served: N/A

Type of Offender(s) Served:

- Probation  
 Parole/Post-Prison  
 Local Control

Crime Category:

- Felony  
 Misdemeanor

Gender:

- Male  
 Female

Risk Level:

- High  
 Medium  
 Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

- |  |                |
|--|----------------|
| <input checked="" type="checkbox"/> State Grant-In-Aid Fund              | \$2,489,499.00 |
| <input type="checkbox"/> DOC M57 Supplemental Fund                       | _____          |
| <input type="checkbox"/> CJC Justice Reinvestment Grant                  | _____          |
| <input type="checkbox"/> CJC Treatment Court Grant                       | _____          |
| <input checked="" type="checkbox"/> County General Fund                  | \$2,761,974.00 |
| <input type="checkbox"/> Supervision Fees                                | _____          |
| <input checked="" type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP) | \$478,043.00   |
| <input type="checkbox"/> Other Fees (revenue)                            | _____          |
| <input type="checkbox"/> Other State or Federal Grant                    | _____          |
| Other: Please Identify   |                |
| <input checked="" type="checkbox"/> Interest                             | \$35,000.00    |
| <input type="checkbox"/>   | _____          |
| <input type="checkbox"/>   | _____          |

Additional Comments:

Program Name:	Operational Support Services
Program Description:	The purpose of the Operational Support Services Program is to provide client intake, logistics and discharge management services to Community Corrections so they have the resources they need to appropriately supervise and assist clients in prosocial community reintegration.
Program Category:	Administration
Program Objectives:	Appropriately and accurately assigning clients to services within 48 hours.
Method(s) of Evaluation:	Quarterly Statistics

Monthly Average to be Served: 400

Type of Offender(s) Served:    Crime Category:    Gender:    Risk Level:

<input checked="" type="checkbox"/> Probation	<input checked="" type="checkbox"/> Felony	<input checked="" type="checkbox"/> Male	<input checked="" type="checkbox"/> High
<input checked="" type="checkbox"/> Parole/Post-Prison	<input checked="" type="checkbox"/> Misdemeanor	<input checked="" type="checkbox"/> Female	<input checked="" type="checkbox"/> Medium
<input checked="" type="checkbox"/> Local Control			<input checked="" type="checkbox"/> Low

**Which Treatment Provider(s) Will You Use Within This Program?**

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

**Funding Sources**

- |   |              |  |
|---|--------------|--|
| <input checked="" type="checkbox"/> State Grant-In-Aid Fund   | \$847,897.00 |  |
| <input type="checkbox"/> DOC M57 Supplemental Fund            |              |  |
| <input type="checkbox"/> CJC Justice Reinvestment Grant       |              |  |
| <input type="checkbox"/> CJC Treatment Court Grant            |              |  |
| <input checked="" type="checkbox"/> County General Fund       | \$606,456.00 |  |
| <input type="checkbox"/> Supervision Fees                     |              |  |
| <input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP) |              |  |
| <input type="checkbox"/> Other Fees (revenue)                 |              |  |
| <input type="checkbox"/> Other State or Federal Grant         |              |  |
| Other: Please Identify  |              |  |
| <input type="checkbox"/>                                      |              |  |
| <input type="checkbox"/>                                      |              |  |
| <input type="checkbox"/>                                      |              |  |

Additional Comments: General Fund supports 4.0 Operational Support staff and misdemeanor supervision.

Program Name:	Employee Development and Training
Program Description:	The purpose of the Employee Development and Training Program is to provide staff safety, survival skills and evidence-based practices training services to community corrections staff and partners so they can reduce risk, safely provide effective services, and make informed decisions based on results-oriented data.
Program Category:	Administration
Program Objectives:	Clackamas County will experience a Community Corrections Department that is evidence-based, high performing, and customer focused, as demonstrated by:  • Increase in employees surveyed annually who report they work in an environment that prioritizes workplace trauma support and education
Method(s) of Evaluation:	Employee/Participant Report - Survey

Monthly Average to be Served: 96

Type of Offender(s) Served:    Crime Category:    Gender:    Risk Level:

<input type="checkbox"/> Probation	<input type="checkbox"/> Felony	<input checked="" type="checkbox"/> Male	<input type="checkbox"/> High
<input type="checkbox"/> Parole/Post-Prison	<input type="checkbox"/> Misdemeanor	<input checked="" type="checkbox"/> Female	<input type="checkbox"/> Medium
<input type="checkbox"/> Local Control			<input type="checkbox"/> Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

- |   |             |  |
|---|-------------|--|
| <input checked="" type="checkbox"/> State Grant-In-Aid Fund   | \$41,895.00 |  |
| <input type="checkbox"/> DOC M57 Supplemental Fund            |             |  |
| <input type="checkbox"/> CJC Justice Reinvestment Grant       |             |  |
| <input type="checkbox"/> CJC Treatment Court Grant            |             |  |
| <input checked="" type="checkbox"/> County General Fund       | \$25,478.00 |  |
| <input type="checkbox"/> Supervision Fees                     |             |  |
| <input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP) |             |  |
| <input type="checkbox"/> Other Fees (revenue)                 |             |  |
| <input type="checkbox"/> Other State or Federal Grant         |             |  |
| Other: Please Identify  |             |  |
| <input type="checkbox"/>                                      |             |  |
| <input type="checkbox"/>                                      |             |  |
| <input type="checkbox"/>                                      |             |  |

Additional Comments:

# BUDGET SUMMARY

**Clackamas County  
2021-2023 Community Corrections Budget Summary**

<b>Program Name</b>	<b>Grant in Aid Fund</b>	<b>All Other Funds and Fees</b>	<b>Total</b>
Office of the Director	\$2,489,499.00	\$3,275,017.00	\$5,764,516.00
Employee Development & Training	\$41,895.00	\$25,478.00	\$67,373.00
Operational Support	\$847,897.00	\$606,456.00	\$1,454,353.00
Community Service	\$0.00	\$970,819.00	\$970,819.00
Parole & Probation Supervision	\$5,628,156.00	\$3,700,993.00	\$9,329,149.00
Pretrial Services	\$0.00	\$960,563.00	\$960,563.00
Residential Treatment & Counseling	\$6,676,180.00	\$3,977,716.00	\$10,653,896.00
Victim Services	\$59,194.00	\$209,819.00	\$269,013.00
Mental Health Services & Housing	\$139,807.00	\$343,064.00	\$482,871.00
Sex Offender Services	\$237,119.00	\$40,000.00	\$277,119.00
<b>Fund Total</b>	<b>\$16,119,747.00</b>	<b>\$14,109,925.00</b>	<b>\$30,229,672.00</b>



# Clackamas County Sheriff's Office

ANGELA BRANDENBURG  
Sheriff

November 2, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Requesting Approval of an Intergovernmental Agreement with the Oregon Department of Forestry (ODF) for law enforcement services in the Santiam State Forest

<b>Purpose/Outcome</b>	This IGA provides funding from the Oregon Department of Forestry to provide law enforcement services in the Santiam State Forest land to ensure public safety for those working and recreating in these areas
<b>Dollar Amount and Fiscal Impact</b>	ODF will reimburse CCSO \$30,000.00 per fiscal year, with a total contract value of \$150,000.00
<b>Funding Source</b>	Oregon Department of Forestry
<b>Duration</b>	The agreement is effective upon signature and remains in effect through June 30, 2026
<b>Previous Board Action/Review</b>	Not Applicable
<b>Strategic Plan Alignment</b>	Provides law enforcement services to ensure public safety
<b>Counsel Review</b>	Andrew Naylor via email 10/18/2021
<b>Contact Person</b>	Nancy Artmann, CCSO Finance Manager 503.785.5012
<b>Contract No.</b>	NA

**BACKGROUND:**

The purpose of the agreement is to provide law enforcement in the Santiam State Forest and adjacent State Forest land to ensure public safety for those working and recreating in these areas. In addition, law enforcement will support forest management by protecting resources such as soil and water damage and discouraging the theft of forest products.

**RECOMMENDATION:**

Staff respectfully recommends the approval of this intergovernmental agreement between Clackamas County and the Oregon Department of Forestry.

Respectfully submitted,

Jenna Morrison  
Chief Deputy



**INTERGOVERNMENTAL COOPERATIVE AGREEMENT**  
**between**  
**OREGON DEPARTMENT OF FORESTRY**  
**&**  
**CLACKAMAS COUNTY SHERIFF OFFICE**



This COOPERATIVE AGREEMENT (the “Agreement”) is between the Oregon Department of Forestry (“ODF”) and the Clackamas County Sheriff Office (“CCSO”).

**1. PURPOSE**

**The purpose of the Agreement is to provide law enforcement in the Santiam State Forest and adjacent State Forest land to help ensure public safety for those working and recreating in these areas. Law enforcement will support forest management by protecting resources such as soil and water from damage as well as by discouraging the theft of forest products. The public contact provided by law enforcement on the forest will help to educate forest users and will encourage safe, wise use of the forest.**

**2. Term of Agreement**

The Agreement shall be effective as of the last date signed below, and shall remain in effect through June 30, 2026, unless terminated earlier in accordance with the provisions of the Agreement.

**3. Services Provided by CCSO**

ODF has a need for law enforcement efforts on its lands in and adjacent to the Santiam State Forest. CCSO agrees:

- A. To provide additional patrols on ODF roads within the Santiam State Forest, and to provide law enforcement in the Santiam State Forest and on adjacent State Forest land at locations determined by ODF. Primary emphasis of patrols will be at ODF-administered recreation sites.

These patrols will be any combination of regular patrol shifts and overtime patrol shifts that CCSO deems reasonable and able to fill. ODF recommends these additional patrols during weekends, holidays, hunting seasons, and other times when there is an increase in use on these lands. These patrols should also be included to fulfill ongoing criminal investigations on these lands.

CCSO may assign Deputy Sheriffs to other duties to meet emergency needs.

- B. To provide marked vehicles for each Deputy Sheriff capable of traversing forest roads. Marked vehicles shall be equipped with all necessary communications equipment.
- C. To notify ODF's Designated Representatives as soon as possible of any incidents on State Forest lands involving a fatality, a shooting, Search and Rescue, or a life flight transport.
- D. To provide ODF with quarterly written reports for all patrols and other services conducted under this Agreement. The quarterly report shall include the dates, Deputy Sheriff's name, time and location of each patrol or service, and the results found or action(s) taken. Services unrelated to State Forest lands shall be identified and shall not be billed to ODF.

For purposes of this Agreement, "services unrelated to State Forest lands" include, but are not limited to, search and rescue not on State Forest land and regular CCSO road patrol duties.

- E. To send quarterly billings to: Santiam Unit Manager, Oregon Department of Forestry, North Cascade District, 2600 State St. Salem, OR 97310.

Quarterly billings shall be submitted to ODF within ten days following the end of the quarter.

Billings shall reference this Agreement and shall be itemized to include: Deputy Sheriffs' names, hourly rates and hours worked for personal services, vehicle mileage accrued during the quarter and description of items and actual costs for other expenses. ODF shall be billed for the costs associated with activities related to State Forest lands, but not for the cost of activities unrelated to State Forest lands, as specified in Section 3. B of this Agreement. Costs shall be billed in accordance with the provisions in Section 5 of this Agreement.

#### **4. Services Provided by ODF**

ODF agrees:

- A. To provide CCSO an orientation to ODF policies, regulations, and administrative rules necessary to meet the purposes and requirements of this Agreement.
- B. To work collaboratively with CCSO to develop and refine areas of emphasis and priority for law enforcement efforts on the Santiam State Forest. Review of emphases and priorities is expected to occur in the spring and the fall.



- C. To provide maps of the State Forest land to be patrolled, on-the-ground orientation to these lands and information about specific problem areas and concerns.
- D. To make payment to CCSO, per Section 5 of this Agreement, within forty-five (45) days of billing by CCSO.

**5. Consideration**

ODF agrees to reimburse CCSO for costs of providing the above-described services, according to the following criteria:

- A. Personal Services - Actual cost of services related to State Forest lands shall be reimbursed at the rate for the Sheriff's deputy at the time of the patrol. The hourly rate will be based upon the time the assigned deputy leaves the public building at 9101 SE Sunnybrook Blvd. Clackamas, OR and will account for vehicle use, employee benefits, dispatch services, and other items related to routine patrols. This rate, depending on the CCSO deputy assigned shall be \$79.00 to \$86.00 per hour.
- B. Equipment – Actual specialty equipment to enhance the capabilities of patrols, investigations of criminal activities, and search and rescue activities related to work in this specific forest environment. These items would be owned and maintained by CCSO and may be used in other locations as CCSO deems appropriate. The limit for equipment purchased and billed to ODF is \$1,000 per year.
- B. Total reimbursements made to CCSO shall not exceed \$30,000 per fiscal year (July 1 through June 30).

**6. Amendments**

The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any matter whatsoever, except by written instrument signed by both parties.

ODF may make written annual adjustments to the Agreement to update the maximum annual reimbursement specified in Section 5. B of this Agreement.

**7. Termination**

- A. This Agreement may be terminated by mutual consent of both parties at any time or by either party upon 30 days' notice in writing, and delivered by mail, email, or in person. Any such termination of this Agreement shall be without prejudice to any obligations or liabilities of either party accrued prior to such termination.

- B. ODF may terminate this Agreement effective upon delivery of written notice to CCSO, or at such other dates as may be established by ODF under any of the following conditions.
1. If ODF's funding is not continued at levels sufficient to allow for purchase of the specified services. When possible, and when agreed upon, the Agreement may be modified to accommodate a reduction in funds.
  2. If CCSO fails to perform the work specified herein, or fails to pursue the work so as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from ODF, fails to correct such failures within thirty (30) days or such longer period as ODF may authorize.
- C. CCSO may terminate this Agreement effective upon delivery of written notice to ODF or at such other dates as may be established by CCSO under any of the following conditions.
1. If CCSO funding or other resources are not continued at levels sufficient to allow for delivery of the services described in this Agreement. When possible, and when agreed upon, the Agreement may be modified to accommodate a reduction in funding or other resources.
  2. If ODF fails to perform the work specified herein, or fails to pursue the work so as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from CCSO, fails to correct such failures within thirty (30) days or such longer period as CCSO may authorize.

**8. Funds Available and Authorized Payments**

ODF certifies, at the time the Agreement is executed, that sufficient funds are available and authorized for expenditure to finance the costs of this Agreement, within ODF's current appropriation and limitation.

CCSO understands and agrees that CCSO's receipt of payment under this Agreement attributable to the services performed under this Agreement after the last day of the current biennium is contingent upon ODF receiving from the Oregon Legislative Assembly (including but not limited to its Emergency Board) appropriations, limitations, or other expenditure authority sufficient to allow ODF, in the exercise of its reasonable administrative discretion, to continue the compensation of CCSO under this Agreement. Nothing in this Agreement will be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.

**9. Access to Records**

The Secretary of State's office of the State of Oregon, ODF, and their duly authorized representatives shall have access to the books, documents, papers, and records not otherwise privileged which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcript.

**10. Representatives**

It is mutually agreed that the following shall be the designated representatives of each party for the purposes of administering this Agreement:

- A. For ODF:
  - 1. North Cascade District, District Forester
  
- B. For CCSO:
  - 1. Nancy Artmann  
503.785.5012  
nartmann@clackamas.us

**11. Condition of Performance:**

ODF's performance hereunder is conditioned upon CCSO's compliance with applicable law including provisions of ORS 279B.220, 279B.230 and 279B.235, which are hereby incorporated by reference.

**12. Signatures:**

**Clackamas County**

**Oregon Department of Forestry**

\_\_\_\_\_  
Sheriff, Clackamas County

\_\_\_\_\_  
District Forester

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Attorney General's Office Legal Sufficiency Review**

\_\_\_\_\_

Assistant Attorney General

---

Date



# Clackamas County Sheriff's Office

ANGELA BRANDENBURG  
Sheriff

November 2, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of a Resolution Delegating Authority to the Clackamas County Sheriff's Office to accept a grant award through the United States Department of Justice, Office of Community Oriented Policing Services**

<b>Purpose/Outcome</b>	The resolution delegates authority to Sheriff Angela Brandenburg to accept the grant award through the United States Department of Justice (DOJ)'s online grant application and acceptance portal
<b>Dollar Amount and Fiscal Impact</b>	Federal Award Amount is \$250,000.00
<b>Funding Source</b>	Federal Funding through the United States Department of Justice
<b>Safety Impact</b>	Furtheres the Board of County Commissioners' strategic priority of ensuring safe, healthy, and secure communities
<b>Duration</b>	Project Period 9/1/2021 through 8/31/2023
<b>Previous Board Action/Review</b>	The Board of County Commissioners approved Clackamas County Sheriff's office to apply for this grant funding on June 24 <sup>th</sup> , 2021
<b>Counsel Review</b>	Andrew Naylor via e-mail 10/26/2021
<b>Procurement Review</b>	Not Applicable
<b>Contact Person</b>	Nancy Artmann (503)785-5012
<b>Award Number</b>	15JCOPS-21-GG-02328-SPPS

**BACKGROUND:**

The Clackamas County Sheriff's Office (CCSO) was awarded funding from the DOJ to pilot an embedded Clinician/Deputy co-response team within our agency. Our Co-Responder Unit will pair a qualified, full-time Mental Health Clinician with a senior Patrol Deputy to decrease Patrol response times and provide immediate interventions. A Mental Health Case Manager and a Peer Support Specialist will support the Clinician and Deputy by collaborating and providing additional direct services to clients.

**RECOMMENDATION:**

Staff respectfully recommends the Board approve the resolution delegating authority to Sheriff Angela Brandenburg to accept the Grant through the United States Department of Justice's online grant application and acceptance portal.

Respectfully submitted,

Jenna Morrison  
Chief Deputy

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

In the Matter of Approving  
Execution of 2021 Community  
Policing Development Crisis  
Intervention Teams Grant



Board Order No. \_\_\_\_\_

*Page 1 of 2*

**Whereas**, the Clackamas County Board of County Commissioners (the “Board”) has authority to sign all grants and any amendments or renewals of the same;

**Whereas**, the United States Department of Justice, Office of Community Oriented Policing Services, approved an application submitted by Clackamas County (through its Sheriff’s Office) for a grant award of \$250,000.00 under the 2021 Community Policing Development Crisis Intervention Teams Solicitation (the “Grant”);

**Whereas**, acceptance of the Grant can only be accepted through use of the United States Department of Justice’s online grant application and acceptance portal;

**NOW THEREFORE, the Clackamas County Board of County Commissioners resolves as follows:**

1. The requested acceptance of the Grant is hereby approved;
2. Sheriff Angela Brandenburg at the Clackamas County Sheriff’s Office is hereby delegated limited authority to take all steps reasonably necessary to accept the Grant through the United State Department of Justice’s online grant application and acceptance portal.

**[Signatures to Follow]**

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

In the Matter of Approving  
Execution of 2021 Community  
Policing Development Crisis  
Intervention Teams Grant



Board Order No. \_\_\_\_\_  
*Page 2 of 2*

**DATED** this \_\_\_\_ day of \_\_\_\_\_, 2021

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

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



**DAN JOHNSON**  
DIRECTOR

**DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**

DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 4, 2021

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of Amendment Number 1 for Local Agency Agreement #32726-1 with the State of Oregon, acting by and through its Department of Transportation of Transportation for Systemic Signals and Illumination Design

<b>Purpose/Outcomes</b>	Design safety improvements at some intersections on Sunnybrook Blvd., Sunnyside Road, Johnson Creek Blvd. and Oatfield Road to reduce crashes.
<b>Dollar Amount and Fiscal Impact</b>	Total grant amount is \$352,900 of which 7.78% is matching road funds equal to \$27,455.62
<b>Funding Source</b>	Road Fund
<b>Duration</b>	Effective from FFY 2024-2027 – detailed scheduling yet to be determined
<b>Previous Board Action</b>	12/03/2020: Approval to apply for Oregon Dept. of Transportation All Roads Transportation Safety Funding – FFY 2024-2027 11/02/2021: Discussion item at issues
<b>Counsel Review</b>	This agreement has been reviewed by County Counsel on September 30, 2021; NB
<b>Procurement Review</b>	NA; ODOT will lead design contract
<b>Strategic Plan Alignment</b>	1. Build a strong infrastructure 2. Ensure safe, healthy and secure communities.
<b>Contact Person</b>	Joseph Marek, Traffic Safety Program Manager – (503) 970-8987
<b>Contract No.</b>	32726-1

**BACKGROUND:**

The Oregon Department of Transportation (ODOT), All Roads Transportation Safety Program (ARTS) addresses safety needs on all public roads in Oregon including collaboration with local agencies. Federal funds from the Highway Safety Improvement Program and local agency funds are used for this program. The current ARTS project IGA includes the design and construction of safety improvements at signalized intersections as identified in exhibit A. This amendment removes construction from this IGA because it will be included in a separate IGA (Agreement 34887) that will also be coming before the Board. The original IGA with design and construction had a project total of \$1,098,800.00. This amendment will reduce funds for a new project total of \$352,900.00. Both design and construction are being completed by ODOT. The required local agency funding focus on reducing fatal and serious injury crashes in alignment



with the adopted Oregon Department of Transportation – Transportation Safety Action Plan and consistent with the County’s adopted Transportation Safety Action Plan.

This agreement is effective from date of all signatures through FFY 2024-2027 or when the project is completed.

Section 8 of the Terms of Agreement does require that the County guarantee the availability of funding for the project which will likely span more than one fiscal year. Recognizing that commitment to funding isn’t guaranteed across fiscal years, this is standard language used in ODOT/Agency agreements and was negotiated with AOC and LOC.

**RECOMMENDATION:**

Staff respectfully recommends that the Board approve this agreement with Oregon Department of Transportation.

Respectfully submitted,

*Joseph Marek*

Joseph Marek,  
Traffic Safety Program Manager, Department of Transportation and Development

## Exhibit A – Project Location and Scope of Work

As part of the Project set forth in this Agreement, State will construct the following improvements at the following locations:

ARTS ID #	Location	Improvements
36	Sunnybrook Boulevard: Oak Bluff Blvd to 97 <sup>th</sup> Ave	Install supplemental signal heads, reflectorized backplates, coordinated or adaptive signal timing, and actuated advance warning dilemma zone along Sunnybrook Blvd at Oak Bluff Blvd, 93 <sup>rd</sup> Ave, I-205 southbound, I-205 northbound, and 97 <sup>th</sup> Ave
37	Sunnyside Road: Valley View Terrance to 132 <sup>nd</sup> Avenue	Install reflectorized backplates, supplemental signal heads, and actuated advance warning dilemma zone protection systems along Sunnyside Rd at Valley View Terrace, 117 <sup>th</sup> Ave, 119 <sup>th</sup> Ave, and 132 <sup>nd</sup> Ave
38	Johnson Creek Boulevard: Fuller Road to 92 <sup>nd</sup> Avenue	Install reflectorized backplates, coordinated/adaptive signal timing, and dilemma zone protection system along Johnson Creek Blvd at Fuller Rd, I-205 southbound ramp, I-205 northbound ramp, and 92 <sup>nd</sup> Ave
39	Oatfield Road: Oak Grove Boulevard to Jennings Avenue	Install supplemental signal heads, reflectorized backplates along Oatfield Rd at Oak Grove Blvd, Concord Rd, Thiessen Road, Roethe Rd, and Jennings Rd. Replace doghouses at Roethe Rd with flashing yellow arrow.
148H	SE Sunnyside Road at SE 122 <sup>nd</sup> Avenue	Add reflectorized backplates. Add supplemental signal head for westbound left turn on existing SW signal pole riser; Install advance warning dilemma zone radar detection units for east and west approaches on NW and SE existing signal poles; Add one eastbound through signal head on existing SE signal pole mast arm and rearrange existing heads over travel lanes

**AMENDMENT NUMBER 01  
LOCAL AGENCY AGREEMENT  
SYSTEMIC SIGNALS AND ILLUMINATION (CLACKAMAS)**

This is Amendment No. 01 to the Agreement between the **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as “State” or “ODOT,” and **Clackamas County**, acting by and through its elected officials, hereinafter referred to as “Agency,” entered into on August 27, 2018.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to update Agency’s financial contribution to the Project and narrow the scope of the Agreement to cover only the Preliminary Engineering phase of the Project.

1. **Effective Date.** This Amendment shall become effective on the date it is fully executed and approved as required by applicable law.
2. **Amendment to Agreement.**

**RECITALS, Paragraph 6, page 1, which reads:**

6. The project set forth in this Agreement constitutes that part of the Principal project that is located in Agency’s jurisdiction.

**Shall be deleted in its entirety and replaced with the following:**

6. The project set forth in this Agreement constitutes that part of the Principal project that is located in Agency’s jurisdiction and covers only the Preliminary Engineering phase of the project.

**Terms of Agreement, Paragraph 1, page 1, which reads:**

1. Under such authority, Agency and State agree to State delivering on behalf of Agency the portion of the Principal project located in Agency’s jurisdiction, such portion hereinafter referred to as the “Project.” The Project’s scope and location are further set forth in Exhibit A attached hereto and by this reference made a part hereof.

**Shall be deleted in its entirety and replaced with the following:**

1. Under such authority, Agency and State agree to State delivering on behalf of Agency the Preliminary Engineering work for the portion of the Principal project located in Agency’s jurisdiction, such work hereinafter referred to as the “Project.” The Project’s scope and location are further set forth in Exhibit A attached hereto and by this reference made a part hereof.

**Terms of Agreement, Paragraph 3, page 2, which reads:**

3. The total cost of the Project set forth in this Agreement is estimated at \$1,098,800, which is subject to change. Federal funds for the Project are limited to \$1,013,405.58. Agency shall be responsible for the 7.78 percent match for all eligible costs and any non-participating costs. Any unused federal or state funds will be retained by State, and will not be available for use by Agency for this Agreement or any other projects.

**Shall be deleted in its entirety and replaced with the following:**

3. The total cost of the Project set forth in this Agreement is estimated at \$352,900, which is subject to change. Federal funds for the Project are limited to \$325,444.38. Agency shall be responsible for the 7.78 percent match for all eligible costs and any non-participating costs, except those non-participating costs paid for by State pursuant to Terms of Agreement Paragraph 7. Any unused federal or state funds will be retained by State, and will not be available for use by Agency for this Agreement or any other projects.

**Terms of Agreement, Paragraph 6, page 2, which reads:**

6. With the exception of Americans with Disabilities Act of 1990 (ADA) related design standards and exceptions, State shall consult with Agency on Project decisions that impact Total Project Cost involving the application of design standards, design exceptions, risks, schedule, and preliminary engineering charges, for work performed on roadways under local jurisdiction. State will allow Agency to participate in regular meetings and will use all reasonable efforts to obtain Agency's concurrence on plans. State shall consult with Agency prior to making changes to Project scope, schedule, or budget. However, State may award a construction contract at ten (10) percent (%) over engineer's estimate without prior approval of Agency.

**Shall be deleted in its entirety and replaced with the following:**

6. With the exception of Americans with Disabilities Act of 1990 (ADA) related design standards and exceptions, State shall consult with Agency on Project decisions that impact Total Project Cost involving the application of design standards, design exceptions, risks, schedule, and preliminary engineering charges, for work performed on roadways under local jurisdiction. State will allow Agency to participate in regular meetings and will use all reasonable efforts to obtain Agency's concurrence on plans. State shall consult with Agency prior to making changes to Project scope, schedule, or budget.

**Terms of Agreement, Paragraph 18, page 4-5, which reads:**

**18. Americans with Disabilities Act Compliance:**

- a. When the Project scope includes work on sidewalks, curb ramps, or

pedestrian- activated signals or triggers an obligation to address curb ramps or pedestrian signals, the Parties shall:

- i. Utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended by the ADA Amendments Act of 2008 (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
- ii. Follow ODOT's processes for design, modification, upgrade, or construction of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
- iii. At Project completion, send a completed ODOT Curb Ramp Inspection Form 734- 5020 to the address on the form as well as to State's Project Manager for each curb ramp constructed, modified, upgraded, or improved as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/Pages/HwyConstForms1.aspx>

- b. State shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. State shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction.
- c. Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
  - i. Pedestrian access is maintained as required by the ADA;
  - ii. Any complaints received by Agency identifying sidewalk, curb

- ramp, or pedestrian- activated signal safety or access issues are promptly evaluated and addressed,
- iii. Any repairs or removal of obstructions needed to maintain Project features in compliance with the ADA requirements that were in effect at the time of Project construction are completed by Agency or abutting property owner pursuant to applicable local code provisions,
  - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
  - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
- d. Maintenance obligations in this section shall survive termination of this Agreement.

**Shall be deleted in its entirety and replaced with the following:**

18. ODOT Standards for Accessibility Features: The Parties agree that the Project, including all sidewalks, curb ramps, and pedestrian-activated signals, will be designed according to current ODOT Highway Design Manual standards. The Parties further agree that all Project sidewalks, curb ramps, and pedestrian-activated signals will be designed using ODOT Standard Drawings, and that the ODOT Design Exception process will be followed for any sidewalk, curb ramp, or pedestrian-activated signal that cannot be designed to the ODOT standards. The Project design will include temporary pedestrian routes through or around any work zone. All such temporary pedestrian routes will include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility.

**Terms of Agreement, Paragraph 26 and 27, page 6, which read:**

26. State Contact for this Agreement is Elizabeth Wakefield, Senior Project Leader, 123 NW Flanders Street, Portland, OR 97209, 503-731-3439, Elizabeth.wakefield@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

27. Agency's Contact for this Project is Bikram Raghubansh, PE, PTOE, Senior Traffic Engineer, 150 Beaver Creek Road, Oregon City, OR 97045, 503-742-4706, Bikramrag@clackamas. , or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

**Shall be deleted in its entirety and replaced with the following:**

26. State Contact for this Agreement is Jennifer Bachman, 123 NW Flanders Street, Portland, OR 97209, 503-853-5378, jennifer.l.bachman@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

27. Agency's Contact for this Project is Carl Olson, 150 Beaver Creek Road, Oregon City, OR 97045, 971-235-3260, COlson@clackamas.us, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

**ATTACHMENT NO. 1 to Agreement NO. 32726 SPECIAL PROVISIONS shall be deleted in its entirety and replaced with the attached Revised ATTACHMENT NO. 1. All references to "ATTACHMENT NO. 1" shall hereinafter be referred to as "Revised ATTACHMENT NO. 1."**

**ATTACHMENT NO. 2 FEDERAL STANDARD PROVISIONS shall be deleted in its entirety and replaced with the attached Revised ATTACHMENT NO. 2. All references to "ATTACHMENT NO. 2" shall hereinafter be referred to as "Revised ATTACHMENT NO. 2."**

3. **Counterparts**. This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
4. **Original Agreement**. Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

**SIGNATURE PAGE TO FOLLOW**

Agency/State  
Agreement No. 32726-1

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2021-2024 Statewide Transportation Improvement Program (STIP), (Key #20336) that was adopted by the Oregon Transportation Commission on July 15, 2020 (or subsequently by amendment to the STIP).

**CLACKAMAS COUNTY**, by and through its elected officials

By \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

**LEGAL REVIEW APPROVAL (if required in Agency's process)**

By \_\_\_\_\_  
Agency Counsel

Date \_\_\_\_\_

**Agency Contact:**

Carl Olson  
150 Beaver Creek Road  
Oregon City, OR 97045  
971-235-3260  
colson@co.clackamas.or.us

**State Contact:**

Jennifer Bachman  
123 NW Flanders Street  
Portland, OR 97209  
503-853-5378  
Jennifer.l.bachman@odot.state.or.us

**STATE OF OREGON**, by and through its Department of Transportation

By \_\_\_\_\_  
Delivery and Operations Divisions  
Administrator

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Region 1 Manager

Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

By Jennifer O'Brien  
Assistant Attorney General

Date: via email dated May 24, 2021



**REVISED ATTACHMENT NO. 1 to AGREEMENT NO. 32726  
SPECIAL PROVISIONS**

1. State or its consultant shall conduct all work components necessary to complete the Project, except for those responsibilities specifically assigned to Agency in this Agreement.
  - a. State or its consultant shall conduct preliminary engineering and design work required to produce final plans, specifications, and cost estimates in accordance with current state and federal laws and regulations; obtain all required permits; acquire necessary right of way and easements; and arrange for all utility relocations and adjustments.
  - b. State will perform project management and oversight activities throughout the duration of the Project. The cost of such activities will be billed to the Project.
2. State and Agency agree that the useful life of this Project is defined as twenty (20) years.
3. If Agency fails to meet the requirements of this Agreement or the underlying federal regulations, State may withhold the Agency's proportional share of Highway Fund distribution necessary to reimburse State for costs incurred by such Agency breach. Agency will be ineligible to receive or apply for any Title 23, United States Code funds until State receives full reimbursement of the costs incurred.
4. If the total cost of the Project exceeds the total Project cost set forth in Terms of Agreement paragraph 3, Agency and State may amend this Agreement to either (a) reduce the scope of the Project such that the available State, federal, and Agency funds are sufficient to complete the Project, or (b) apportion the excess costs between Agency and State in a manner agreeable to both Parties. If the Parties are unable to agree to such an amendment, State may, after consultation with Agency, reduce the scope of the Project such that State can complete the reduced Project scope with the available State, federal, and Agency funds. In the event State must reduce the scope of the Project, State shall consult with Agency in good faith and prioritize those reductions that are mutually agreed upon by the Parties.

## **REVISED ATTACHMENT NO. 2 to AGREEMENT NO. 32726**

### **FEDERAL STANDARD PROVISIONS**

#### **PROJECT ADMINISTRATION**

1. State (ODOT) is acting to fulfill its responsibility to the Federal Highway Administration (FHWA) by the administration of this Project, and Agency (i.e. county, city, unit of local government, or other state agency) hereby agrees that State shall have full authority to carry out this administration. If requested by Agency or if deemed necessary by State in order to meet its obligations to FHWA, State will act for Agency in other matters pertaining to the Project. Prior to taking such action, State will confer with Agency concerning actions necessary to meet federal obligations. State and Agency shall each assign a person in responsible charge "liaison" to coordinate activities and assure that the interests of both Parties are considered during all phases of the Project.
2. Any project that uses federal funds in project development is subject to plans, specifications and estimates (PS&E) review and approval by FHWA or State acting on behalf of FHWA prior to advertisement for bid proposals, regardless of the source of funding for construction.
3. State will provide or secure services to perform plans, specifications and estimates (PS&E), construction contract advertisement, bid, award, contractor payments and contract administration. A State-approved consultant may be used to perform preliminary engineering, right of way and construction engineering services.
4. Agency may perform only those elements of the Project identified in the special provisions.

#### **PROJECT FUNDING REQUEST**

5. State shall submit a separate written Project funding request to FHWA requesting approval of federal-aid participation for each project phase including a) Program Development (Planning), b) Preliminary Engineering (National Environmental Policy Act - NEPA, Permitting and Project Design), c) Right of Way Acquisition, d) Utilities, and e) Construction (Construction Advertising, Bid and Award). Any work performed prior to FHWA's approval of each funding request will be considered nonparticipating and paid for at Agency expense. State, its consultant or Agency shall not proceed on any activity in which federal-aid participation is desired until such written approval for each corresponding phase is obtained by State. State shall notify Agency in writing when authorization to proceed has been received from FHWA. All work and records of such work shall be in conformance with FHWA rules and regulations.

## FINANCE

6. Federal funds shall be applied toward Project costs at the current federal-aid matching ratio, unless otherwise agreed and allowable by law. Agency shall be responsible for the entire match amount for the federal funds and any portion of the Project, which is not covered by federal funding, unless otherwise agreed to and specified in the intergovernmental Agreement (Project Agreement). Agency must obtain written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement. If federal funds are used, State will specify the Catalog of Federal Domestic Assistance (CFDA) number in the Project Agreement. State will also determine and clearly state in the Project Agreement if recipient is a subrecipient or contractor, using the criteria in 2 CFR 200.330.
7. If the estimated cost exceeds the total matched federal funds available, Agency shall deposit its share of the required matching funds, plus 100 percent of all costs in excess of the total matched federal funds. Agency shall pay one hundred (100) percent of the cost of any item in which FHWA will not participate. If Agency has not repaid any non-participating cost, future allocations of federal funds or allocations of State Highway Trust Funds to Agency may be withheld to pay the non-participating costs. If State approves processes, procedures, or contract administration that result in items being declared non-participating by FHWA, such items deemed non-participating will be negotiated between Agency and State. Agency agrees that costs incurred by State and Agency for services performed in connection with any phase of the Project shall be charged to the Project, unless otherwise mutually agreed upon by the Parties.
8. Agency's estimated share and advance deposit.
  - a) Agency shall, prior to commencement of the preliminary engineering and/or right of way acquisition phases, deposit with State its estimated share of each phase. Exception may be made in the case of projects where Agency has written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement.
  - b) Agency's construction phase deposit shall be one hundred ten (110) percent of Agency's share of the engineer's estimate and shall be received prior to award of the construction contract. Any additional balance of the deposit, based on the actual bid, must be received within forty-five (45) days of receipt of written notification by State of the final amount due, unless the contract is cancelled. Any balance of a cash deposit in excess of amount needed, based on the actual bid, will be refunded within forty-five (45) days of receipt by State of the Project sponsor's written request.
  - c) Pursuant to Oregon Revised Statutes ([ORS 366.425](#)), the advance deposit may be in the form of 1) money deposited in the State Treasury (an option where a deposit is made in the Local Government Investment Pool), and an Irrevocable Limited Power of Attorney is sent to State's Active Transportation Section, Funding and Program Services Unit, or 2) an Irrevocable Letter of

Credit issued by a local bank in the name of State, or 3) cash or check submitted to the Oregon Department of Transportation.

9. If Agency makes a written request for the cancellation of a federal-aid project; Agency shall bear one hundred (100) percent of all costs incurred as of the date of cancellation. If State was the sole cause of the cancellation, State shall bear one hundred (100) percent of all costs incurred. If it is determined that the cancellation was caused by third parties or circumstances beyond the control of State or Agency, Agency shall bear all costs, whether incurred by State or Agency, either directly or through contract services, and State shall bear any State administrative costs incurred. After settlement of payments, State shall deliver surveys, maps, field notes, and all other data to Agency.
10. Agency shall make additional deposits, as needed, upon request from State. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete the Project.
11. Agency shall, upon State's written request for reimbursement in accordance with Title 23, CFR part 630.112(c) 1 and 2, as directed by FHWA, reimburse State for federal-aid funds distributed to Agency if any of the following events occur:
  - a) Right of way acquisition is not undertaken or actual construction is not started by the close of the twentieth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized for right of way acquisition. Agency may submit a written request to State's Liaison for a time extension beyond the twenty (20) year limit with no repayment of federal funds and State will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.
  - b) Right of way acquisition or actual construction of the facility for which preliminary engineering is undertaken is not started by the close of the tenth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized. Agency may submit a written request to State's Liaison for a time extension beyond the ten (10) year limit with no repayment of federal funds and State will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.
12. State shall, on behalf of Agency, maintain all Project documentation in keeping with State and FHWA standards and specifications. This shall include, but is not limited to, daily work records, quantity documentation, material invoices and quality documentation, certificates of origin, process control records, test results, and inspection records to ensure that the Project is completed in conformance with approved plans and specifications.
13. State shall submit all claims for federal-aid participation to FHWA in the normal manner and compile accurate cost accounting records. State shall pay all reimbursable costs of the Project. Agency may request a statement of costs-to-date at any time by submitting a written request. When the final total cost of the Project has

been computed, State shall furnish Agency with an itemized statement. Agency shall pay an amount which, when added to said advance deposit and federal reimbursement payment, will equal one hundred (100) percent of the final total cost of the Project. Any portion of deposits made in excess of the final total cost of the Project, minus federal reimbursement, shall be released to Agency. The actual cost of services provided by State will be charged to the Project expenditure account(s) and will be included in the final total cost of the Project.

## **DESIGN STANDARDS**

14. Agency and State agree that minimum design standards on all local agency jurisdictional roadway or street projects on the National Highway System (NHS) and projects on the non-NHS shall be the American Association of State Highway and Transportation Officials (AASHTO) standards and be in accordance with State's Oregon Bicycle & Pedestrian Design Guide (current version). State or its consultant shall use either AASHTO's A Policy on Geometric Design of Highways and Streets (current version) or State's Resurfacing, Restoration and Rehabilitation (3R) design standards for 3R projects. State or its consultant may use AASHTO for vertical clearance requirements on Agency's jurisdictional roadways or streets.
15. Agency agrees that if the Project is on the Oregon State Highway System or a State-owned facility, that design standards shall be in compliance with standards specified in the current ODOT Highway Design Manual and related references. Construction plans for such projects shall be in conformance with standard practices of State and all specifications shall be in substantial compliance with the most current Oregon Standard Specifications for Highway Construction and current Contract Plans Development Guide.
16. State and Agency agree that for all projects on the Oregon State Highway System or a State-owned facility, any design element that does not meet ODOT Highway Design Manual design standards must be justified and documented by means of a design exception. State and Agency further agree that for all projects on the NHS, regardless of funding source; any design element that does not meet AASHTO standards must be justified and documented by means of a design exception. State shall review any design exceptions on the Oregon State Highway System and retain authority for said approval. FHWA shall review any design exceptions for projects subject to Project of Division Interest and retains authority for their approval.
17. ODOT agrees all traffic control devices and traffic management plans shall meet the requirements of the current edition of the Manual on Uniform Traffic Control Devices and Oregon Supplement as adopted in Oregon Administrative Rule (OAR) 734-020-0005. State or its consultant shall, on behalf of Agency, obtain the approval of the State Traffic Engineer prior to the design and construction of any traffic signal, or illumination to be installed on a state highway pursuant to OAR 734-020-0430.

## **PRELIMINARY & CONSTRUCTION ENGINEERING**

18. Preliminary engineering and construction engineering may be performed by either a) State, or b) a State-approved consultant. Engineering work will be monitored by State to ensure conformance with FHWA rules and regulations. Project plans, specifications and cost estimates shall be performed by either a) State, or b) a State-approved consultant. State shall review and approve Project plans, specifications and cost estimates. State shall, at project expense, review, process and approve, or submit for approval to the federal regulators, all environmental statements. State shall offer Agency the opportunity to review the documents prior to advertising for bids.
19. Architectural, engineering, photogrammetry, transportation planning, land surveying and related services (A&E Services) as needed for federal-aid transportation projects must follow the State's processes to ensure federal reimbursement. State will award, execute, and administer the contracts. State's personal services contracting process and resulting contract document will follow Title 23 CFR part 172, 2 CFR part 1201, ORS 279A.055, 279C.110, 279C.125, OAR 731-148-0130, OAR 731-148-0220(3), OAR 731-148-0260 and State Personal Services Contracting Procedures, as applicable and as approved by the FHWA. Such personal services contract(s) shall contain a description of the work to be performed, a project schedule, and the method of payment. No reimbursement shall be made using federal-aid funds for any costs incurred by Agency or the state approved consultant prior to receiving authorization from State to proceed.
20. The State or its consultant responsible for performing preliminary engineering for the Project shall, as part of its preliminary engineering costs, obtain all Project related permits necessary for the construction of said Project. Said permits shall include, but are not limited to, access, utility, environmental, construction, and approach permits. All pre-construction permits will be obtained prior to advertisement for construction.
21. State shall prepare construction contract and bidding documents, advertise for bid proposals, award all construction contracts, and administer the construction contracts.
22. Upon State's award of a construction contract, State shall perform quality assurance and independent assurance testing in accordance with the FHWA-approved Quality Assurance Program found in State's Manual of Field Test Procedures, process and pay all contractor progress estimates, check final quantities and costs, and oversee and provide intermittent inspection services during the construction phase of the Project.
23. State shall, as a Project expense, assign a liaison to provide Project monitoring as needed throughout all phases of Project activities (preliminary engineering, right-of-way acquisition, and construction). State's liaison shall process reimbursement for federal participation costs.

## **Disadvantaged Business Enterprises (DBE) Obligations**

24. State and Agency agree to incorporate by reference the requirements of 49 CFR part 26 and State's DBE Program Plan, as required by 49 CFR part 26 and as approved by USDOT, into all contracts entered into under this Project Agreement. The following required DBE assurance shall be included in all contracts:

*"The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of Title 49 CFR part 26 in the award and administration of federal-aid contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Agency deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b))."*

25. State and Agency agree to comply with all applicable civil rights laws, rules and regulations, including Title V and Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), and Titles VI and VII of the Civil Rights Act of 1964.

26. The Parties hereto agree and understand that they will comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the work including, but not limited to, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270, incorporated herein by reference and made a part hereof; Title 23 CFR parts 1.11, 140, 635, 710, and 771; Title 49 CFR parts 24 and 26; , 2 CFR 1201; Title 23, USC, Federal-Aid Highway Act; Title 41, Chapter 1, USC 51-58, Anti-Kickback Act; Title 42 USC; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, the provisions of the FAPG and *FHWA Contract Administration Core Curriculum Participants Manual & Reference Guide*. State and Agency agree that FHWA-1273 Required Contract Provisions shall be included in all contracts and subcontracts verbatim and not by reference.

## **RIGHT OF WAY**

27. Right of Way activities shall be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35, FAPG, CFR, and the *ODOT Right of Way Manual*, Title 23 CFR part 710 and Title 49 CFR part 24.

28. State is responsible for proper acquisition of the necessary right of way and easements for construction and maintenance of projects. State or its consultant may perform acquisition of the necessary right of way and easements for construction and maintenance of the Project in accordance with the *ODOT Right of Way Manual*, and with the prior approval from State's Region Right of Way office.

29. If the Project has the potential of needing right of way, to ensure compliance in the event that right of way is unexpectedly needed, a right of way services agreement will be required. State, at Project expense, shall be responsible for requesting the

obligation of project funding from FHWA. State, at Project expense, shall be entirely responsible for project acquisition and coordination of the right of way certification.

30. State or its consultant shall ensure that all project right of way monumentation will be conducted in conformance with ORS 209.155.
31. State and Agency grant each other authority to enter onto the other's right of way for the performance of non-construction activities such as surveying and inspection of the Project.

## **RAILROADS**

32. State shall follow State established policy and procedures when impacts occur on railroad property. The policy and procedures are available through the State's Liaison, who will contact State's Railroad Liaison on behalf of Agency. Only those costs allowable under Title 23 CFR part 140 subpart I, and Title 23 part 646 subpart B shall be included in the total Project costs; all other costs associated with railroad work will be at the sole expense of Agency, or others.

## **UTILITIES**

33. State or its consultant shall follow State established statutes, policies and procedures when impacts occur to privately or publicly-owned utilities. Policy, procedures and forms are available through the State Utility Liaison or State's Liaison. State or its consultant shall provide copies of all signed utility notifications, agreements and Utility Certification to the State Utility & Railroad Liaison. Only those utility relocations, which are eligible for reimbursement under the FAPG, Title 23 CFR part 645 subparts A and B, shall be included in the total Project costs; all other utility relocations shall be at the sole expense of Agency, or others. Agency may send a written request to State, at Project expense, to arrange for utility relocations/adjustments lying within Agency jurisdiction. This request must be submitted no later than twenty-one (21) weeks prior to bid let date. Agency shall not perform any utility work on state highway right of way without first receiving written authorization from State.

## **GRADE CHANGE LIABILITY**

34. Agency, if a County, acknowledges the effect and scope of [ORS 105.755](#) and agrees that all acts necessary to complete construction of the Project which may alter or change the grade of existing county roads are being accomplished at the direct request of the County.
35. Agency, if a City, hereby accepts responsibility for all claims for damages from grade changes. Approval of plans by State shall not subject State to liability under [ORS 105.760](#) for change of grade.
36. Agency, if a City, by execution of the Project Agreement, gives its consent as required by ORS [373.030\(2\)](#) to any and all changes of grade within the City limits, and gives



its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, in connection with or arising out of the Project covered by the Project Agreement.

## **MAINTENANCE RESPONSIBILITIES**

37. Agency shall, at its own expense, maintain operate, and provide power as needed upon Project completion at a minimum level that is consistent with normal depreciation and/or service demand and throughout the useful life of the Project. The useful life of the Project is defined in the Special Provisions. State may conduct periodic inspections during the life of the Project to verify that the Project is properly maintained and continues to serve the purpose for which federal funds were provided. Maintenance and power responsibilities shall survive any termination of the Project Agreement. In the event the Project will include or affect a state highway, this provision does not address maintenance of that state highway.

## **CONTRIBUTION**

38. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

39. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

40. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of

expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

### **ALTERNATIVE DISPUTE RESOLUTION**

41. The Parties shall attempt in good faith to resolve any dispute arising out of this Project Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

### **WORKERS' COMPENSATION COVERAGE**

42. All employers, including Agency, that employ subject workers who work under this Project Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability Insurance with coverage limits of not less than five hundred thousand (\$500,000) must be included. State and Agency shall ensure that each of its contractors complies with these requirements.

### **LOBBYING RESTRICTIONS**

43. Agency certifies by signing the Agreement that:

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

Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.
- d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31, USC Section 1352.
- e) Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS**

By signing this Agreement, Agency agrees to fulfill the responsibility imposed by 49 CFR 29.510 regarding debarment, suspension, and other responsibility matters. For the purpose of this provision only, Agency is considered a participant in a covered transaction. Furthermore, by signing this Agreement, Agency is providing the certification for its principals required in Appendix to 2 CFR part 180 – Covered Transactions.



**DAN JOHNSON**  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Amendment #2 with Kittelson & Associates, Inc. for  
Design Services for South Ivy Street Pedestrian Intersection Improvements**

<b>Purpose/Outcomes</b>	This contract will provide survey, right-of-way, stormwater management, and design services for pedestrian and intersection improvements along South Ivy Street from 99E to Lee Elementary School.
<b>Dollar Amount and Fiscal Impact</b>	Amendment #2 adds \$372,369.54 for a total contract value of \$912,225.33
<b>Funding Source</b>	County Road Fund, State Funded Local Project Funds and City of Canby
<b>Duration</b>	Amendment execution through June 30, 2023
<b>Previous Board Action</b>	01/24/19: BCC Approval of a Supplemental Project Agreement No. 32756 with Oregon Department of Transportation for the S. Ivy Street (Canby) Project 09/26/19: BCC approved the Contract. 11/2/21: Discussion item at issues
<b>Strategic Plan Alignment</b>	-Ensure safe, healthy and secure communities -Build a strong infrastructure
<b>Counsel Review</b>	10/19/2021 ARN
<b>Contract #</b>	1856
<b>Contact Person</b>	Jonathan Hangartner, PE, 971-804-2825

**Background:**

Clackamas County obtained State Funded Local Projects (SFLP) funds through an IGA with the Oregon Department of Transportation (ODOT) to provide bicycle lanes and sidewalk improvements on South Ivy St from OR99E to Lee Elementary School and signal construction at the intersection of South Ivy St and SE Township Rd. After completion of the project, the County will transfer jurisdiction of the street to the City of Canby.

This contract amendment will provide additional services required to support the expanded scope of the project, as requested and funded by City of Canby. These services include 27 additional right-of-way files for acquisition, additional maps and descriptions, underground power design and connection to each building, illumination design, additional traffic analysis related to a roundabout alternative analysis and future traffic volumes for the proposed signal, and additional utility coordination related to a required joint trench layout.

**Procurement Process:**

This Amendment is in accordance with LCRB C-047-0800(b) for an unanticipated amendment.

**Recommendation:**

Staff respectfully recommends that the Board approve Amendment #2 with Kittelson & Associates, Inc. for the additional design services for South Ivy Street Pedestrian Intersection Improvements.

Sincerely,

*Joel Howie*

Joel Howie  
Civil Engineer Supervisor

Placed on the BCC Agenda \_\_\_\_\_ by Procurement

**AMENDMENT #2**  
**TO THE CONTRACT DOCUMENTS WITH KITTELSON & ASSOCIATES, INC. FOR DESIGN SERVICES FOR SOUTH IVY STREET PEDESTRIAN INTERSECTION (2019-19)**  
**Contract #1856**

This Amendment #2 is entered into between **Kittelson & Associates, Inc.** (“Contractor”) and Clackamas County (“County”) and shall become part of the Contract documents entered into between both parties on **September 26, 2019** (“Contract”).

The Purpose of this Amendment #2 is to make the following changes to the Contract:

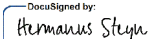
1. ARTICLE I, Section 1. **Effective Date and Duration** is hereby amended as follows:  
 The Contract termination date is hereby changed from June 30, 2022 to **June 30, 2023**.
  
2. ARTICLE I, Section 2. **Scope of Work** is hereby amended as follows:  
 Contractor will perform additional Work described generally as follows: twenty-seven (27) additional right-of-way files for acquisition, additional maps and descriptions, underground power design and connection to each building, illumination design, additional traffic analysis related to a roundabout alternative analysis and future traffic volumes for the proposed signal, and additional utility coordination related to a required joint trench layout. The additional Work is further described in the updated Scope of Work attached hereto as **Exhibit C** and hereby incorporated by reference.
  
3. ARTICLE I, Section 3. **Consideration** is hereby amended as follows:  
 County will pay Contractor an additional **\$372,369.54** to complete the additional Work. Compensation for the additional Work will be in accordance with the fee schedule attached as **Exhibit D** and hereby incorporated by reference. The total Contract compensation shall not exceed \$912,225.33.

ORIGINAL CONTRACT	\$ 539,855.79
AMENDMENT #1	Update Scope of Work
<b>AMENDMENT #2</b>	<b>\$ 372,369.54</b>
<b>TOTAL AMENDED CONTRACT</b>	<b>\$ 912,225.33</b>

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


**Kittelson & Associates, Inc.**

**Clackamas County**

DocuSigned by:  
  
AAE87D05DE83426  
 Authorized Signature \_\_\_\_\_ Date 10/25/2021  
 Hermanus Steyn  
 Printed Name \_\_\_\_\_

\_\_\_\_\_  
 Chair  
 \_\_\_\_\_  
 Recording Secretary  
 \_\_\_\_\_  
 Date

**Approved as to Form**

**Andrew Naylor**  Digitally signed by Andrew Naylor  
 Date: 2021.10.25 14:10:14 -07'00' 10-25-21  
 \_\_\_\_\_  
 County Counsel Date

**EXHIBIT C**  
**UPDATED SCOPE OF WORK**

**EXHIBIT C – AMENDMENT 2**  
**Scope for Civil Engineering Services – Additional Design Services**  
**Ivy Street Improvements**  
**Clackamas County Project: 2019-25 (22239)**  
**October 15, 2021**

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This scope of work supplements the scope of work already authorized by Clackamas County under agreement 2019-25 for project 22239. Please refer to the scope of work within those amendments for information regarding the project background and understanding.

The original scope and fee is amended as follows:

**Schedule:**

Underground Power Design: 10/31/2021-12/15/2021

ROW Acquisition: 12/4/2021 – 8/30/2022

Final PS&E (Bid Ready) Submittal: September 2022

Final PS&E Obligation: January 2023

Advertise for Construction: February 2023

**DESIGN AND ENGINEERING TASKS**

**Task 1: Contract Administration – No Change**

**Task 2: Field Studies and Survey**

Modify the following sections for work completed under verbal NTP:

- 2.2 Horizontal Control Survey:** Additional Survey effort due to lack of survey monumentation available. To develop a defensible boundary and ROW establishment it was necessary for our crews to be extra diligent and search beyond what would typically be required if the monumentation existed. This required additional trips to the field to search and recover said monumentation. Due to the complexity and lack of monumentation additional research was required as well as additional office and ROW calculation time that was not anticipated at the time of initial scoping.
  
- 2.4 Utility Coordination:** Anticipated additional effort to coordinate relocation plans of Direct Link, Wave, NW Natural and Canby Utility Board (CUB). Direct Link fiber relocation is requesting storm design revisions to eliminate conflicts. Underground utility design requires additional coordination with franchise utilities to size and place a joint utility trench.
  
- 2.6 Traffic Study:** Conduct Roundabout vs Signal analysis, including concept sketch of Roundabout. Conduct additional warrant analysis for sensitivity for predicted future growth in Canby. Initial scoping assumed signal warrants would be met for the currently proposed design year. Multiple scenarios were modeled with differing development patterns in the City to find a scenario where warrants could be met in the near future. None were found and the design was changed to build a flashing yellow warning sign on poles that allows for the future signal

**Task 5: Final Design**

Modify the following sections:

**5.0 Final Design:** Add row to Sheet Table:

Franchise Utility Underground & Illumination Design	6
Illumination Detail	1

Add the following sections:

**5.6 Franchise Utility Plans (90%, and 100% Bid Ready)**



The following tasks will complete the underground franchise utility plans:

- Incorporate the schematic design of conduits and vaults provided by CUB into the construction plans. Consultant will set the alignment and grade of all vaults and conduits to integrate with the design and minimize conflicts. CUB to provide wiring diagrams.
- Assess the effort required for conversion to underground power for each home/business (Minor Conversion or Meter Replacement) and provide a list that includes each impacted property. Assumes any electrical design for conversions will be completed by Contractor.
  - Conduct field visit with County Electrical Inspector to confirm conversions.

#### 5.7 Illuminations Plans (90%, and 100% Bid Ready)

The following tasks will complete the illumination plans:

- Conduct Photometric Analysis for the roadway lighting utilizing City approved lighting materials (30' mounting height, direct bury poles, 4' mast arm, and 84W LED heads)
- Create light installation detail sheet. Lights will be included in the Franchise Utility plan series

#### Task 6: Right-of-Way and Real Property Acquisition Services

Modify the summary section: (Changes in bold, removals in ~~strikethrough~~)

Consultant shall provide ROW acquisition services following the State of Oregon's Right-of-Way Manual and County policies and procedures. It is assumed a total of **57** ~~60~~ acquisitions are required for the project for which title reports, maps and descriptions, General Information Notice (GIN) letters, limited appraisals and reviews, and acquisition and closing services will be needed. Out of the **57** ~~60~~ acquisitions, it is assumed that as many as **0** ~~35~~ will be acquired with an alternative temporary easement process, **0** ~~20~~ will be acquired using an Administrative Determination of Just Compensation (ADJC) process, **47 will be acquired using Value Finding Appraisals** and **10** ~~5~~ will require appraisals and review appraisals for the acquisition process.

~~The County intends to acquire the temporary construction easements pertaining to the driveway transition only files through an alternative temporary easement process similar to that which is outlined in the 2018 ODOT ROW Manual section 6.325. The County intends to acquire the remaining temporary and permanent easements that lie outside the scope of the alternative temporary easement process and are estimated to be valued less than \$10,000 using an ADJC process. ADJC values will be determined and prepared by County staff through analysis and review of the sales used in the appraisal of a similar zoned property. One appraisal and appraisal review for each type of property and/or each property considered to be complex and outside the scope of a Value Finding Appraisal will be needed. It is assumed that appraisals will be taking and damage appraisal formats.~~

It is assumed ~~that the permanent acquisitions shall be acquired in the County's name and~~ that there will be no displaced persons and up to (4) personal property moves. It is assumed the Consultant shall attend two (2) project meetings and one (1) ROW Agent shall attend the Public Open Houses. **Permanent acquisitions along Ivy Street will be acquired in the County's name. Permanent acquisitions along side streets will be acquired in the County's name, and will require separate legal descriptions.**

Modify the following sections:

#### 6.3 Right-of-Way Descriptions & Exhibit Maps

Add the following paragraph:

A total of 57 properties are assumed for property acquisition, 18 of them will require 2 legal descriptions and exhibits to separate County and City frontage, for a total of 75 descriptions and exhibits. 60 descriptions and exhibits were originally assumed, the budget for this task is increased for an additional 15 legal descriptions.

**6.5 Preliminary Activities:** Increase scope to include an additional 27 files, for a total of 57 files.

**6.6 Appraisal & Appraisal Review:** Increase scope to include 5 additional Appraisal and Appraisal review files, total of 10.

**6.7 ROW Acquisition:** Increase scope to include an additional 27 files, for a total of 57 files.

Add the following sections:

**6.8 ROW Impact Maps:** Consultant shall prepare individual ROW Impact Maps for each parcel requiring ROW or Easement Acquisition. Impact maps shall show area of acquisition, dimensions, and physical improvements located on the subject parcel.

**6.9 Value Finding Appraisals:** A Value Finding Appraisal will be needed for all files that are estimated to be valued below \$10,000.

Consultant shall provide 1 hard copy and 1 digital copy of each Value Finding Appraisal to the County for review. The County shall issue Just Compensation with a notice to proceed with the acquisition.

**EXHIBIT D**  
**FEE SCHEDULE**



**Clackamas County  
South Ivy Rate Schedule  
As of August 2021**

<b>Classification</b>	<b>Hourly Billing Rate*</b>
Senior Principal Engineer/Planner	\$278.14
Principal Engineer/Planner	\$233.86
Associate Engineer/Planner	\$202.97
Senior Engineer/Planner	\$164.90
Engineer/Planner	\$128.39
Transportation Analyst	\$110.05
Technician I	\$90.52
Technician II	\$111.64
Senior Technician	\$138.06
Associate Technician	\$163.02
Office Support	\$91.52

*\* Consistent with the contract, Kittelson may request an increase in rates not to exceed the increase in the CPI, West Urban -All Items annual average.  
The percent change as of June 2021 is 6.1%. Kittelson is requesting an adjustment of 3% to cover the remaining term of this contract, through June 30, 2022.*

Ivy Street Improvements  
 Clackamas County  
 PROFESSIONAL SERVICES - HOURLY BREAKDOWN  
 August 5, 2021  
 Kittelson & Associates  
 Fee Summary - Amendment 2

Task	SL5 - Project Manager AMR	SL5 - Principal Engineer WES	SL7 - Engineer/Planner CEC	SL2 - Engineer SJP	SL1 - Analyst ALK	Tech II BSC	KAI Totals TOTALS	S&F See attached breakdown	Universal Field Services See attached breakdown	Reimbursables	Total
\$ 233,886 \$ 233,886 \$ 128,339 \$ 164,900 \$ 110,005 \$ 111,628											
<b>Task 2.0 Field Investigations, Reports, and Studies</b>											
2.2 Horizontal Control, Monument Rec., and Pre-Con. ROS							\$0.00	\$10,900.00			\$10,900.00
2.4 Utility Coordination											
Utility Meeting	4.00		8.00				\$1,962.56			\$0.00	\$1,962.56
Conflict Report	1.00		8.00				\$1,260.98				\$1,260.98
Subsurface Utility Engineering	4.00		24.00				\$4,016.80				\$4,016.80
Traffic Analysis	4.00	16.00	36.00	36.00		8.00	\$16,128.76		\$0.00		\$16,128.76
Total Hours	15.00	16.00	76.00	37.00	0.00	8.00	152.00				152.00
Labor Cost	\$ 3,507.90	\$ 3,741.76	\$ 9,757.64	\$ 6,101.30	\$ -	\$ 893.12	\$ 24,001.72	\$ 10,900.00	\$0.00	\$0.00	\$34,901.72
<b>Total Cost This Task</b>							<b>\$24,001.72</b>	<b>\$10,900.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$34,901.72</b>
<b>Task 5.0 Final Design (60%, 90% &amp; 100% Bid Ready)</b>											
5.2 Signal Plans							\$0.00				\$0.00
5.3 Construction Staging Plans & TPAIR							\$0.00				\$0.00
5.5 Construction Specifications (90% & 100% Bid Ready)							\$0.00				\$0.00
5.6 Franchise Utility Plans	24.00		60.00		90.00	24.00	\$25,899.90				\$25,899.90
5.7 Illumination Plans		8.00	24.00		48.00	48.00	\$15,993.36				\$15,993.36
Total Hours	24.00	8.00	84.00	0.00	138.00	72.00	326.00				326.00
Labor Cost	\$5,612.64	\$1,870.88	\$10,784.76	\$0.00	\$15,186.90	\$8,038.08	\$41,493.26	\$0.00	\$0.00	\$0.00	\$41,493.26
<b>Total Cost This Task</b>							<b>\$41,493.26</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$41,493.26</b>
<b>Task 6.0 ROW Acquisition</b>											
6.3 Right-of-Way Descriptions & Exhibit Maps	4.00		8.00				\$1,962.56	\$16,995.00			\$18,957.56
6.5 Preliminary Activities							\$0.00	\$0.00			\$0.00
6.6 Appraisal & Appraisal Review							\$0.00	\$1,440.00	\$25,750.00		\$27,190.00
6.7 ROW Acquisition							\$0.00	\$93,830.00	\$2,736.00		\$96,566.00
6.8 ROW Impact Maps	6.00		32.00		60.00	24.00	\$14,794.00	\$0.00			\$14,794.00
6.9 Value Finding Appraisals	4.00		4.00				\$1,448.00	\$4,416.00	\$115,000.00		\$120,864.00
6.9C Value Finding Appraisal Review (Contingency)							\$0.00	\$27,600.00			\$27,600.00
Total Hours	14.00	0.00	44.00	0.00	60.00	24.00	142.00				142.00
Labor Cost	\$3,274.04	\$0.00	\$5,648.16	\$0.00	\$8,603.00	\$2,679.36	\$18,205.56	\$16,995.00	\$89,686.00	\$171,085.00	\$295,974.56
<b>Total Cost This Task</b>							<b>\$18,205.56</b>	<b>\$16,995.00</b>	<b>\$89,686.00</b>	<b>\$171,085.00</b>	<b>\$295,974.56</b>
<b>PROJECT SUMMARY</b>											
Total Project Hours	53.0	24.0	204.0	37.0	198.0	104.0	621.0	20.0	1,256.0	0.0	1,898.0
Total Salary Cost	\$12,394.56	\$5,612.64	\$28,191.56	\$5,101.30	\$21,789.90	\$11,610.56	\$83,700.54	\$27,895.00	\$59,686.00	\$171,085.00	\$372,369.54
Total Fee	\$12,394.56	\$5,612.64	\$28,191.56	\$5,101.30	\$21,789.90	\$11,610.56	\$83,700.54	\$27,895.00	\$59,686.00	\$171,085.00	\$372,369.54
<b>PROJECT TOTAL</b>											<b>\$372,369.54</b>

**Ivy Street Improvements**  
**Clackamas County**  
**PROFESSIONAL SERVICES - HOURLY BREAKDOWN**  
**August 5, 2021**  
**S&F Land Services**  
 mary - Amendment 2

		\$ 170.00	\$185.00	\$ 135.00	\$ 105.00	\$ 95.00		
<b>Task</b>		Project Manager	SL3 - Sr. Engineer	Project Surveyor	Office Technician	CAD Technician	<b>S&amp;F</b>	
		Andrew	RWF	Jared	Shane	Dyllan	<b>TOTALS</b>	
<b>Task 2.0 Field Investigations, Reports, and Studies</b>								
2.2	Horizontal Control, Monument Rec., and Pre-Con. ROS	12.00		36.00	20.00	20.00	20.00	\$10,900.00
	Total Hours	12.00	0.00	36.00	20.00	20.00	20.00	88.00
	Labor Cost	\$ 2,040.00	\$ -	\$ 4,860.00	\$ 2,100.00	\$ 1,900.00	\$ 1,900.00	\$ 10,900.00
	<b>Total Cost This Task</b>							<b>\$10,900.00</b>
<b>6.9C Value Finding Appraisal Review (Contingency)</b>								
6.3	Right-of-Way Descriptions & Exhibit Maps	18.00		48.00	71.00			\$16,995.00
	Total Hours	18.00	0.00	48.00	71.00	0.00	0.00	137.00
	Labor Cost	\$3,060.00	\$0.00	\$6,480.00	\$7,455.00	\$0.00	\$0.00	\$16,995.00
	<b>Total Cost This Task</b>							<b>\$16,995.00</b>
<b>PROJECT SUMMARY</b>								
	Total Project Hours	30.0	0.0	84.0	91.0	20.0	225.0	
	Total Salary Cost	\$5,100.00	\$0.00	\$11,340.00	\$9,555.00	\$1,900.00	\$27,895.00	
	Reimbursables Subtotal							
	Total Fee	\$5,100.00	\$0.00	\$11,340.00	\$9,555.00	\$1,900.00	\$27,895.00	
<b>PROJECT TOTAL</b>								
							<b>S&amp;F Total</b>	

Ivy Street Improvements  
 Clackamas County  
 PROFESSIONAL SERVICES - HOURLY BREAKDOWN  
 May 27, 2021  
 Universal Field Services

Task	\$96.00 Project Manager Self Hemelstrand	\$68.00 Sr. Right of Way Agent Bob Finnigan	\$68.00 Sr. Right of Way Agent Barry Bliss	\$64.00 Right of Way Agent Jason Knudson	\$50.00 Sr. Title Specialist Debra Rich	\$54.00 Right of Way Agent Brandi Scruton	UFS
<b>Task 6.0 ROW Acquisition</b>							TOTALS
6.5 Preliminary Activities							\$0.00
6.6 Appraisal & Appraisal Review	15.00						\$1,440.00
6.7 ROW Acquisition	260.00	303.00	303.00		26.00	303.00	\$83,830.00
6.8 ROW Impact Maps							\$0.00
6.9 Value Finding Appraisals	46.00						\$4,416.00
Total Hours	321.00	303.00	303.00	0.00	26.00	303.00	1,256.00
Labor Cost	\$30,816.00	\$20,604.00	\$20,604.00	\$0.00	\$1,300.00	\$16,362.00	\$89,686.00
<b>Total Cost This Task</b>							<b>\$89,686.00</b>
<b>PROJECT SUMMARY</b>							
Total Project Hours	321.0	303.0	303.0	0.0	26.0	303.0	1,256.0
Total Salary Cost	\$30,816.00	\$20,604.00	\$20,604.00	\$0.00	\$1,300.00	\$16,362.00	\$89,686.00
Reimbursables Subtotal							\$171,086.00
Task 6.6 Appraisal (5) @ \$3,950							\$19,750.00
Task 6.6 Appraisal Review (5) @ \$1,200							\$6,000.00
Task 6.9 Value Finding Appraisals (46) @ \$2,500 each							\$115,000.00
Task 6.9 (Contingency) Value Finding Appraisal Review (46) @ \$600 each							\$27,600.00
Mileage (60 mile RT, 2 per owner)							\$2,088.00
Miscellaneous (Printing, delivery, etc)							\$650.00
Total Fee	\$30,816.00	\$20,604.00	\$20,604.00	\$0.00	\$1,300.00	\$16,362.00	\$260,774.00
<b>PROJECT TOTAL</b>							



DAN JOHNSON  
MANAGER

DEVELOPMENT AGENCY

DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

November 4, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Release and Termination of a Post-Closing Escrow and Development Agreement between the  
Development Agency and Clackamas Corporate Park, LLC

<b>Purpose/Outcomes</b>	Releases and terminates a Post-Closing Escrow and Development Agreement between the Development Agency and Clackamas Corporate Park, LLC.
<b>Dollar Amount and Fiscal Impact</b>	None
<b>Funding Source</b>	Not applicable
<b>Duration</b>	The release and termination is permanent
<b>Previous Board Action</b>	The Post-Closing Escrow and Development Agreement was signed by the Board on July 5, 2018.
<b>Strategic Plan Alignment</b>	Grow a vibrant economy
<b>Procurement Review</b>	1. Was this item processed through Procurement? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no 2. If no, provide a brief explanation: Not required
<b>Counsel Review</b>	Reviewed and Approved by Counsel on October 12, 2021
<b>Contact Person</b>	David Queener, Development Agency Senior Project Planner 503.742.4322

**Background:**

The Development Agency and Clackamas Corporate Park, LLC (CCP) entered into Post-Closing Escrow and Development Agreement on July 5, 2018. As part of this agreement, CCP was required to meet certain development goals. A \$125,000 security deposit was held in escrow until the goals were met.

CCP has completed construction of nearly 300,000 square feet of industrial space that is now fully occupied. They have provided documentation showing that all of the development goals outlined in the agreement have been met. Therefore, the \$125,000 was released on September 7, 2021.

Since all of the conditions have been met and the security deposit has been released, the agreement can now be terminated.



**Recommendation:**

Staff respectfully recommends that the Board approve and execute the Release and Termination of the Post-Closing and Escrow Agreement between the Development Agency and Clackamas Corporate Park, LLC.

Sincerely,

*David Queener*

David Queener  
Development Agency Program Supervisor

After Recording Return to:  
Vinson & Elkins L.L.P.  
2001 Ross Avenue, Suite 3900  
Dallas, Texas 75201  
Attention: Joe O'Connell

**RELEASE AND TERMINATION  
OF MEMORANDUM OF POST-CLOSING AGREEMENT**

**THIS RELEASE AND TERMINATION OF MEMORANDUM OF POST-CLOSING AGREEMENT** (this "**Release**") is entered into this \_\_\_\_ day of October, 2021 (the "**Termination Date**"), by and between **CLACKAMAS CORPORATE PARK, LLC**, a Delaware limited liability company ("**Developer**"), and **CLACKAMAS COUNTY DEVELOPMENT AGENCY**, the Urban Renewal Agency of Clackamas County, a corporate body politic ("**Agency**").

**RECITALS:**

A. Developer and Agency entered into that certain Post-Closing Escrow Holdback and Development Agreement dated as of July 5, 2018 (as amended, assigned or otherwise modified, the "**Agreement**") with respect to the development of certain real property in Clackamas County, Oregon, as more particularly described on **Exhibit A** attached hereto (the "**Property**");

B. The Agreement was evidenced of record by that certain Memorandum of Post-Closing Agreement dated as of July 5, 2018, recorded on July 5, 2018 in the Official Records of Clackamas County, Oregon as Document Number 2018-041893 (as amended, assigned or otherwise modified, the "**Memorandum**");

C. The Agreement has terminated on or prior to the Termination Date; and

D. Developer and Agency now desire to terminate and forever release the Memorandum, all as more fully set forth in this Release.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, Developer and Agency hereby agree as follows:

1. **Termination and Release of Memorandum.** Developer and Agency hereby terminate and forever release the Memorandum in all respects as of the Termination Date.

2. **Binding Effect; Governing Law.** This Release shall be binding upon Developer and Agency and their respective successors and assigns. This Release shall be governed by the laws of the state in which the Property is located.

3. **Counterparts.** This Release may be executed in counterparts which, when integrated, shall constitute one original of this Release.

**[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, Developer and Agency have executed this Release and Termination of Memorandum of Post-Closing Agreement to be effective as of the Termination Date.

DEVELOPER:

CLACKAMAS CORPORATE PARK, LLC, a Delaware limited liability company

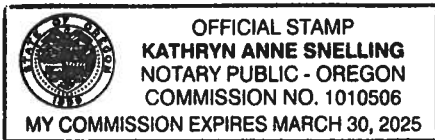
By: Lion-TCC Development II, LLC, a Delaware limited liability company, its sole member

By: TC Industrial Associates, Inc., a Delaware corporation, its authorized member

By: *Steve Wells*  
Name: Steve Wells  
Title: Vice President

STATE OF Oregon §  
COUNTY OF Multnomah §

This instrument was acknowledged before me on October 19, 2021, by Steve Wells, Vice President of TC Industrial Associates, Inc., a Delaware corporation, the authorized member of Lion-TCC Development II, LLC, a Delaware limited liability company, the sole member of Clackamas Corporate Park, LLC, a Delaware limited liability company, on behalf of said corporation and limited liability companies.



*Kathryn Anne Snelling*  
Notary Public, State of Oregon

AGENCY:

**CLACKAMAS COUNTY DEVELOPMENT AGENCY**, a  
corporate body politic

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on October \_\_\_\_, 2021, by  
\_\_\_\_\_, \_\_\_\_\_ of Clackamas County Development Agency, a  
corporate body politic, on behalf of said agency.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

That tract of land described as Tract 1, Property Line Adjustment Deed Document No. 2015-079459 together and with a portion of that tract of land being described as Tract 2, Property Line Adjustment Deed Document No. 2015-082415, Clackamas County Deed Records. Said tract of land being situated in the Northeast one-quarter and the Southeast one-quarter of Section 15 Township 2 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, and more particularly described as follows:

Commencing at the North one sixteenth section corner between Sections 15 and 14 of said Township and Range, said point being marked by a 1-1/4" inside diameter iron pipe; thence, South 42°13'50" West, 104.67 feet to a point of tangency, said point being on the East line of said Parcel 2 tract, said point also being on the West right of way line of Wilde Road, County Road No. 3093; thence, along the East line of said tract and along said West right of way line, South 0°21'32" West, 1284.77 feet to the intersection of said West right of way line and the North right of way line of Vernon Avenue, Local Access Road No. P2089, said point also being the Southeast corner of said tract; thence, along said North right of way line, North 89°40'18" West, 250.34 feet to a point on the West line of that tract of land described in Deed Document No. 2007-085791, Clackamas County Deed Records; thence, along the East line of said Document No. 2007-085791 tract, North 0°23'38" East, 118.25 feet to the Northeast corner thereof; thence, along the North line of said tract, South 89°58'06" West, 189.55 feet; thence, North 0°21'32" East, 315.80 feet to the Northeast corner of that tract of land described as Tract 1, Property Line Adjustment Deed Document No. 2015-082415, Clackamas County Deed Records, said point also being the true point of beginning of the herein described tract; thence, along the North line of said tract, South 89°58'06" West, 374.12 feet to an angle point therein; thence, North 57°17'18" West, 537.00 feet to an angle point said line; thence, continuing along said line, North 89°33'48" West, 79.95 feet to the Southwest corner of that tract of land described as Tract 1 in Deed Document No. 2015-079459, Clackamas County Deed Records; thence, along the West line of said tract, North 0°27'22" East, 615.55 feet to the Northwest corner of said tract, said point also being on the South right of way line of Capps Road, County Road No. 3393; thence, along said South right of way line, North 89°57'49" East, 847.57 feet; thence, South 0°07'16" West, 30.00 feet; thence, continuing along the South right of way line of Capps Road, County Road No. 88, South 89°08'27" East, 58.98 feet; thence, leaving said line, South 0°21'32" West, 875.81 feet to true point of beginning.



**John D. Wentworth, Clackamas County District Attorney**

807 Main Street, Oregon City, Oregon 97045  
 P: 503.655.8431 | F: 503.650.8943 | districtattorney@clackamas.us

November 4, 2021

Board of County Commissioner  
 Clackamas County

Members of the Board:

Approval of Application for

Grant Agreement from the Oregon Department of Justice for Child Abuse Multidisciplinary Intervention (CAMI) Program Services Total Grant Award is \$1,040,851.29 funding through the State of Oregon. These are pass through funds. No County General Funds are involved.

<b>Purpose / Outcomes</b>	The CAMI Program’s goal is to support a multidisciplinary approach to child abuse intervention. Services include assessment, advocacy, and treatment to children who are victims or alleged victims of child abuse (ORS 419B.005 through 419B.050).		
<b>Dollar Amount and Fiscal Impact</b>	<b>Total grant award: \$1,040,851.29; Carry Over from 20-21: \$23,394.61</b>		
	<b>Total Budget = \$1,064,245.89</b>		
	Expenditure Description	MDT Approved 2021-2022 Budget:	<b>Estimated</b> 2022-2023 Budget:
	Children’s Center	\$450,500.00	\$450,500.00
	RISK Outreach	\$30,000.00	\$30,000.00
	MDT Coordinator	\$32,000.00	\$33,000.00
	Training	\$30,710.00	\$6,576.00
Supplies	\$610.25	\$349.64	
	<b>Total</b>	<b>\$543,820.25</b>	<b>\$520,425.64</b>
<b>Funding Source</b>	State of Oregon, acting by and through OR Department of Justice, pass-through funds.		
<b>Duration</b>	Effective July 1, 2021 through June 30, 2023.		
<b>Previous Board Action/Review</b>	The Board approved the 2019-2021 MDT CAMI grant award on Oct 31, 2019, Item Number B.1.		
<b>Strategic Plan Alignment</b>	Ensure safe, healthy and secure communities for children.		
<b>Procurement Review</b>	1. Was the item processed through Procurement? No 2. Item is a State Pass-Through Grant.		
<b>Contact Person</b>	Bob Willson, Management Analyst 2 – District Attorney’s Office, 503-650-3011		

**BACKGROUND:**

Oregon law (ORS 418.746-418.796) requires that every county utilize a multidisciplinary approach to child abuse intervention. In 1989, the law specified that every county create a multidisciplinary team (MDT) that is coordinated through each county’s District Attorney’s office. The legislature recognized then, as it does still today, that identifying and responding to child abuse is complicated and thus requires complex collaboration and consistent team work in order to address child abuse situations adequately. (Grant Handbook, Page 5)

Clackamas County has received funding from the State of Oregon for Child Abuse Multi-Disciplinary Intervention (CAMI) since at least 2005. CAMI funds are intended for the ongoing support of community child abuse intervention centers (ORS 418.790 through 418.792) and for the development and maintenance of child abuse multidisciplinary teams (ORS 418.745 through 418.747).



## John D. Wentworth, Clackamas County District Attorney

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807 Main Street, Oregon City, Oregon 97045  
P: 503.655.8431 | F: 503.650.8943 | [districtattorney@clackamas.us](mailto:districtattorney@clackamas.us)

### **RECOMMENDATION:**

I respectfully recommend that the Board approve the attached 2021-2023 State Child Abuse Multidisciplinary Intervention (CAMI) Grant Program Application between Clackamas County, acting by and through its District Attorney's Office and the State of Oregon, acting by and through its Department of Justice.

Respectfully submitted,

John D. Wentworth

# Financial Assistance Application Lifecycle Form

Use this form to track your potential award from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

**\*\* CONCEPTION \*\***

## Section I: Funding Opportunity Information - To be completed by Requester

Award type:  Direct Appropriation (no application)  
 Subrecipient Award  Direct Award

Lead Department & Fund:

District Attorney

Award Renewal?  Yes  No

**If renewal, complete sections 1, 2, & 4 only. If Direct Appropriation, complete page 1 and Dept/Finance signatures only.**

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

Name of Funding Opportunity:

Child Abuse Multidisciplinary Intervention Account (CAMI)

Funding Source: Federal  State  Local

Requestor Information (Name of staff person initiating form):

Joan Radonich (MDT Grant Coordinator on Contract)

Requestor Contact Information:

807 Main Street, Rm 7, Oregon City, 503-936-6267, jprc5@comcast.net

Department Fiscal Representative:

Bob Willson, Clackamas County DA Management Analyst

Program Name and prior project # (please specify):

CAMI MDT, 220-1132-07101

Brief Description of Project:

The Child Abuse Multidisciplinary Intervention (CAMI) Account is the primary source of state funding for the intervention, assessment and investigation of child abuse. State law requires CAMI funds be distributed through multidisciplinary teams (MDTs). MDTs are established in each county under the leadership of the local district attorney. Each county develops a coordinated intervention plan and protocols to provide comprehensive services to the victims of child abuse, including assessment, advocacy, treatment and prosecution.

Name of Funding Agency:

State of Oregon Department of Justice - Crime Victims - Child Abuse Multi

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

<https://www.doj.state.or.us/crime-victims/grant-funds-programs/child-abuse-multidisciplinary-intervention-cami-fund/>

**OR**

Application Packet Attached:  Yes  No

Completed By:

Bob Willson

10/13/21

Date

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

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

Competitive Application

Non-Competing Application

Other

CFDA(s), if applicable:

N/A

Funding Agency Award Notification Date:

Announcement Date:

Announcement/Opportunity #:

Grant Category/Title:

2021-2023 State Child Abuse Multi

Max Award Value:

\$1,040,851.29

Allows Indirect/Rate:

N/A

Match Requirement:

None

Application Deadline:

Other Deadlines:

Award Start Date:

7/01/21

Other Deadline Description:

Award End Date:

6/30/23

Completed By:

Bob Willson

Program Income Requirement:

Pre-Application Meeting Schedule:

Additional funding sources available to fund this program? Please describe:

How much General Fund will be used to cover costs in this program, including indirect expenses? \$0.00 +

How much Fund Balance will be used to cover costs in this program, including indirect expenses? \$0.00 +



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

**Mission/Purpose:**

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

The mission of the Clackamas County Multi-Disciplinary Team is to develop a professional team of child abuse investigators and reporters who share an inter-agency commitment to protecting abused children and preventing child abuse. The grant supports the MDT's mission and purpose to develop a team approach to the assessment, investigation and prosecution of child abuse cases. MDT members work in

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

The MDT team, includes but is not limited to, representatives of: law enforcement, child protective services, prosecution, mental health, the medical profession, schools, victim advocacy and the Child Advocacy Center.

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

The MDT grant has four main funding areas (Children's Center, MDT Coordinator, RISK Outreach, & Training) with specific goals, objectives, activities and performance measures that are reported semi -annually and financial reports are reported quarterly.

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

No.

**Organizational Capacity:**

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

Yes.

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

No, this grant does not require specific partnerships.

3. If this is a pilot project, what is the plan for sunseting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

N/A

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

N/A

**Collaboration**

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

The Clackamas County District Attorney's office provides administrative support and leadership of the Team.

**Reporting Requirements**

1. What are the program reporting requirements for this grant/funding opportunity?

Fund reimbursement is dependent on required semi-annual progress and statistical reports and quarterly financial reports.

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

Grant requires statistical reporting of goals, outcomes, and performance outcomes which are collected from existing sources of member agencies -- District Attorney, Children's Center, DHS, Juvenile Dept.

3. What are the fiscal reporting requirements for this funding?

Quarterly reports are required for this grant and provided by Clackamas County Finance Department.

**Fiscal**

1. Will we realize more benefit than this financial assistance will cost to administer?

Yes.

2. Are other revenue sources required, available or will be used to fund the program? Have they already been secured? Please name other sources, including General Fund or Fund Balance and amounts.

No additional revenue sources are required.

3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?

There is no match requirement but DHS, LEA, and Children's Center provide In-kind services.

4. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are those sources?

No indirect expenses will be incurred.

Program Approval:

Name (Typed/Printed)	Date	Signature
<b>** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR **</b>		
<b>**ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY. COUNTY FINANCE OR ADMIN WILL SIGN **</b>		

**Section IV: Approvals**

DIVISION DIRECTOR (or designee, if applicable)		
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR (or designee, if applicable)		
John D. Wentworth	10/14/2021	
Name (Typed/Printed)	Date	Signature

FINANCE ADMINISTRATION		
Elizabeth Comfort	10.20.2021	
Name (Typed/Printed)	Date	Signature

EOC COMMAND APPROVAL (DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)		
Name (Typed/Printed)	Date	Signature

**Section V: Board of County Commissioners/County Administration**

*(Required for all grant applications. If your grant is awarded, all grant awards must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)*

**For applications less than \$150,000:**

COUNTY ADMINISTRATOR	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
Name (Typed/Printed)	Date	Signature

**For applications greater than \$150,000 or which otherwise require BCC approval:**

BCC Agenda Item #:  Date:

OR

Policy Session Date:

---

County Administration Attestation

County Administration: re-route to department contact when fully approved.  
 Department: keep original with your grant file.

## A. Cover Page

## Instructions:

- Complete this page and click **SAVE**, fields will populate with information and any errors will be noted.
- Required fields are marked with a \*.

**Organization Certification**

1. By Checking the following boxes, I hereby certify the following:
  - ✓The Organization Information page is complete and accurate. If appropriate, CVSSD has been contacted to make any changes;
  - ✓All personnel working on this application have been added to the organization and the application;
  - ✓A current (within the last 2 years) Civil Rights Training Certification has been uploaded on the Certification page under Organization Details within My Organization or the agency is new and hereby certifies it will complete the required training and upload the Certification prior to executing a Grant Agreement.
  - ✓The Whistleblower Certification has been uploaded on the Certification page under Organization Details within My Organization or the agency is new and hereby certifies it will complete and upload the Certification prior to executing a Grant Agreement.
  - ✓The Staff Roster is complete and accurate. In order to edit the Staff Roster go to the "My Organization" page, and then "Organization Details."
  - ✓If applicable, the Board Roster is complete and accurate. In order to edit the Board Roster go to the "My Organization" page, and then "Organization Details."
  - ✓The program will send at least one representative to each applicable required training event hosted by CVSSD (i.e. All Grantees' Day, ODAA, MDT Day, Non-Profit Directors' Day).
  - ✓All personnel no longer associated with the applicant have been deactivated in the system.
  
2.
  - a. Applicant Agency's or Organization's Legal Name & Mailing Address:  
*Clackamas County, acting by and through its District Attorney's Office  
 2051 Kaen Road  
 Oregon City, OR 97045  
 Phone: 503-655-8431  
 Fax: 503-650-8943*
  - b. Physical Address (if different than the mailing address):  
*807 Main St  
 Oregon City OR 97045*
  - c. County: *Clackamas County*
  - d. Federal ID #: *93-6002286*
  - e. Website Address: *https://www.clackamas.us/da*
  
3.
  - a. Application Contact Person - The person who is responsible for day to day management and reporting for the grant.: *joan radonich*  
*mdt coordinator  
 807 Main Street Room 7  
 Oregon City, OR 97045  
 Phone: (503) 936-6267  
 Fax: (503) 663-2554  
 E-mail: jprc5@comcast.net*
  - b. Contact Information:  
*Bouavieng Bounnam  
 Grant Accountant 2  
 2051 Kaen Road  
 Oregon City, OR 97045  
 Phone: (503) 742-5422  
 Fax: (503) 742-5401  
 E-mail:  
 bbounnam@co.clackamas.or.us*
  - c. Fiscal Contact - The individual who prepares the financial reports for the grant:  
*Robert Willson*
  - d. Contact Information:  
*Administrative Analyst  
 807 Main Street, Room 7  
 Oregon City, OR 97045-1845  
 Phone: (503) 655-8431  
 Fax: (503) 650-8943  
 E-mail: sarahbro@co.clackamas.or.us*
  - e. Fiscal Officer - This is the individual who has signature authority for financial reporting for the applicant. CVSSD assumes that all financial reports submitted in E-Grants have been approved by the Fiscal Officer as a true and accurate representation of grant expenditures:  
*Robert Willson*
  - f. Contact Information:  
*Administrative Analyst  
 807 Main Street, Room 7  
 Oregon City, OR 97045-1845  
 Phone: (503) 655-8431  
 Fax: (503) 650-8943  
 E-mail: sarahbro@co.clackamas.or.us*
  
4. **Type of Applicant: \***  
 Non-Profit, Non-Governmental  
 District Attorney's Office/Victim Assistance Program  
 ✓Other  
 If Other, please describe: *District Attorney's Office -- CAMI MDT*

B. MDT and Child Fatality Review Teams Leadership and MDT Required Roles

Instructions:

- Required fields are marked with a \*

The individuals listed on form B should be authorized to commit the agency or organization filling the statutory role on the MDT to the protocols, interventions and obligations described in this application.

The individuals who represent non-statutorily required agencies or organizations that are members of the MDT or Child Fatality Review Team should be listed on form C. These additional MDT members should be agencies or organizations whose participation informs and improves the intervention. In deciding upon inclusion of additional members in case review, teams should carefully consider all factors impacting the child victim and non offending family, including confidentiality and the contributions additional members would make to the intervention. Teams can use protocol to define the scope of each member's participation.

Members of the MDT and Child Fatality Review Team shall be notified in advance of any and all meetings and are expected to attend and participate regularly. Members should be provided information regarding cases to be reviewed with sufficient notice to allow preparation for meaningful participation in case review. Helpful resources for meaningful case review can be found at <http://www.nationalchildrensalliance.org/ncas-standards-for-accredited-members/> and [ABC House Case Review Form](#).

1. **MDT Chair** - The DA (or sometimes a DDA)-The person responsible for convening the MDT.
  - a. Name: *Scott Healy*
  - b. Agency: *Clackamas County DA*
  - c. Phone: *(503) 655-8431*
  - d. Email: *scotthea@clackamas.us*
  
2. **MDT Coordinator** - The person who completes administrative tasks on behalf of the MDT including preparing and circulating the MDT meeting agendas.
  - a. Name: *Joan Radonich*
  - b. Agency: *Clackamas County MDT*
  - c. Phone: *(503) 936-6267*
  - d. Email: *jradonich@clackamas.us*
  
3. **Fatality Review Team Leader** -Typically the DA-the person primarily responsible for facilitating the meetings.
  - a. Name: *Scott Healy*
  - b. Agency: *CC DA*
  - c. Phone: *(503) 655-8431*
  - d. Email: *scotthea@clackamas.us*
  
4. **Fatality Review Coordinator** - The person primarily responsible for handling the logistics for the team-such as scheduling meetings, preparing agendas, taking notes and entering information in the CDR database
  - a. Name: *Joan Radonich*
  - b. Agency: *CC MDT*
  - c. Phone: *(503) 936-6267*
  - d. Email: *jradonich@clackamas.us*
  
5. Role: **District Attorney's Office**
  - a. Name: *Scott Healy*
  - b. Agency: *CC District Attorney*
  - c. Phone: *(503) 655-8431*
  - d. Email: *scotthea@clackamas.us*
  - e. This person is also a member of the Fatality Review Team:
    - ✓ Yes No \*
  - f. ORS 418.747 Training complete.
    - ✓ Yes No \*
  - g. Karly's Law Training complete:
    - ✓ Yes No \*
  
6. Role: **Department of Human Services Child Protective Services**
  - a. Name: *Kevin Long*
  - b. Agency: *Clackamas County DHS/CW*
  - c. Phone: *(971) 673-3000*
  - d. Email: *kevin.long@dhsosha.state.or.us*
  - e. This person is also a member of the Fatality Review Team:
    - ✓ Yes No \*
  - f. ORS 418.747 Training complete:
    - ✓ Yes No \*

g. Karly's Law Training complete:  
 Yes No \*

**7. Role: Health Department**

a. Name: *Cassandra Stewart*  
 b. Agency: *CC Public Health*  
 c. Phone: *(503) 742-5300*  
 d. Email: *cstewart@clackamas.us*  
 e. This person is also a member of the Fatality Review Team:  
 Yes No \*  
 f. ORS 418.747 Training complete:  
 Yes No \*  
 g. Karly's Law Training complete:  
 Yes No \*

**8. Role: Juvenile Department**

a. Name: *Kathryn Anderson*  
 b. Agency: *CC Juvenile Department*  
 c. Phone: *(503) 655-8342*  
 d. Email: *kanderson2@clackamas.us*  
 e. This person is also a member of the Fatality Review Team:  
 Yes  No \*  
 f. ORS 418.747 Training complete:  
 Yes No \*  
 g. Karly's Law Training complete:  
 Yes No \*

**9. Role: School Official**

a. Name: *Annie Schlegel*  
 b. Agency: *North Clackamas School District*  
 c. Phone: *(503) 353-5660*  
 d. Email: *schlegela@nclack.k12.or.us*  
 e. This person is also a member of the Fatality Review Team:  
 Yes No \*  
 f. ORS 418.747 Training complete:  
 Yes No \*  
 g. Karly's Law Training complete:  
 Yes No \*

**10. Role: Law Enforcement**

a. Name:  
 b. Agency: *Oregon City Police Department*  
 c. Phone: *(503) 905-3501*  
 d. Email: *cgates@orc.org*  
 e. This person is also a member of the Fatality Review Team:  
 Yes No \*  
 f. ORS 418.747 Training complete:  
 Yes No \*  
 g. Karly's Law Training complete:  
 Yes No \*

**11. Role: Child Abuse Intervention Center**

a. Name: *Dr. Cathleen Lang*  
 b. Agency: *Children's Center*  
 c. Phone: *(503) 655-7725*  
 d. Email: *cathleen@childrenscenter.cc*

- e. This person is also a member of the Fatality Review Team:  
 Yes No \*
- f. ORS 418.747 Training complete:  
 Yes No \*
- g. Karly's Law Training complete:  
 Yes No \*

**12. Role: County Mental Health**

- a. Name: *Kim Pengelly*
- b. Agency: *CC Behavioral Health*
- c. Phone: *(503) 655-8471*
- d. Email: *kimpen@co.clackamas.or.us*
- e. This person is also a member of the Fatality Review Team:  
 Yes No \*
- f. ORS 418.747 Training complete:  
 Yes No \*
- g. Karly's Law Training complete:  
 Yes No \*

C. MDT and Child Fatality Review Teams - Additional Members

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3. CAIC based Forensic Interviewers and Victim Advocates (in addition to the statutorily required CAIC representative who should be a CAIC Director or Deputy Director)
4. AAGs who represent DHS in county juvenile dependency and termination of parental rights proceedings

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a.	Name: <i>Allie Martin</i>
b.	Agency: <i>Clackamas County HT MDT &amp; Safety Compass</i>
c.	Phone: <i>(971) 235-0021</i>
d.	Email: <i>allie@safetycompass.org</i>
e.	This person is also a member of the:
	<input checked="" type="checkbox"/> Fatality Review Team <input checked="" type="checkbox"/> MDT <input checked="" type="checkbox"/> Both
f.	ORS 418.747 Training complete:
	<input checked="" type="checkbox"/> Yes      No
g.	Karly's Law Training complete:
	<input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No

C. MDT and Child Fatality Review Teams - Additional Members

Instructions:

- Please complete this page and click **SAVE**, fields will populate with information and any errors will be noted at this point.
- Required fields are marked with a \*.

The individuals listed on this form should be authorized to commit their agency or organization to the protocols, interventions, and obligations described in this application.

The additional MDT or Fatality Review Team members should include:

1. additional statutory members. For example, if your MDT includes several law enforcement agencies, please include the representative of each law enforcement agency not listed on form B. Please note that under ORS 418.785(2) the child fatality review team shall be assisted by the county medical examiner or county health officer as well as other professionals who are specifically trained in areas relevant to the purpose of the team. Please list the medical examiner who participates in your child fatality reviews.

2. other non-statutorily required agencies or organizations that are members of the MDT and/or Child Fatality Review Team. Additional members should be agencies or organizations whose participation informs and improves the intervention, for example, the AAG who handles dependency and termination of parental rights proceedings in your county. In deciding upon inclusion of additional members for case review, teams should carefully consider all factors impacting the child victim and non offending family, including confidentiality and the contributions additional members would make to the intervention.

For additional information on Child Fatality Review, please visit <https://www.oregon.gov/oha/PH/PreventionWellness/SafeLiving/KeepingChildrenSafe/Pages/child-fatality-review.aspx>.

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## D. Intervention Plan

## Instructions:

- Complete this page and click **SAVE**, fields will populate with information and any errors will be noted.
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1. Describe all sources of support, including funding (other than CAMI funding) and in-kind contributions, available to carry out your county's child abuse intervention plan. \*  
*Clackamas County receives no other funding -- except in cases of county wide trainings where we may charge a registration fee to offset facility rental and materials.*

*All other sources of support are in-kind contributions from our great partners.*

*By far, the largest in-kind support comes from the DA's office who provides financial support, leadership and time to carry out the many functions and projects of MDT. The DA's office does not take any 5% administrative funding for MDT operations.*

*DA's office provides the leadership, time and support of First Assistant District Attorney Scott Healy. Scott is the chair of the MDT, School Outreach (meet monthly) Child Fatality Review, Policy & Management Subcommittee (meet quarterly) and participates on other committees -- Case Review, Training.*

*DA financial analyst keeps track of MDT budget and with the County grant financial coordinator and provides monthly budget reports to MDT and processes all contracts, invoices for MDT. Estimate for in-kind contributions from the DA's office is @\$15,000.*

*Partner in kind contributions from DHS, all 8 LEA, CC BH, CC PH, Juvenile, Schools, CWS, Corrections*

*All our partners are represented at our monthly MDT meetings and on our subcommittees and contribute their time and followup on projects monthly. We currently have @75 on our email list and usually have about 30-35 members at monthly meeting & more at educational presentations all supported by their agency to attend MDT. Our 4 main partners each provide 3 educational presentations a year -- DHS, Children's Center, LEA & DA plus are active members of all are subcommittees.*

*Children's Center has provided a free space for meetings, but is also active in all our subcommittees (P & M, training, case review, CFR) with many of their staff assuming many responsibilities for the work of MDT and providing the leadership of the MH Collaborative subcommittee.*

*DHS provides and makes sure staff are in attendance at all our meetings & subcommittees -- providing education, updates and maintaining strong communication with all partner agencies. DHS does chair the Case Review subcommittee and besides time for the monthly meeting also coordinates the agenda.*

*Providence Medical -- donation of space for meeting -- paying for coffee service only (\$50).*

*It is hard to measure the exact value and time of all our members in kind contributions of time and work in support of MDT & greatly values agency leadership who support the importance of their staff contribution to MDT.*

*Some approximate salary estimations*

*DA -- \$86/hr*

*County Financial Assistance -- \$34/hr*

*Social Worker -- \$41/hr*

*DHS caseworker -- \$28/hr*

*LEA -- \$40/hr*

*Child Abuse Pediatrician \$89/hr*

2. Describe the critical needs of victims of child abuse in the county, including but not limited to child abuse assessment, advocacy, and treatment. \*  
*Prior to devastating impacts of COVID-19 Pandemic, the wildfires, school closures and ice storms, in Clackamas County many child well being indicators showed positive 5 yr trends according to data compiled annually by Our Children Oregon (<https://ourchildrenoregon.org>.) OCO data for Clackamas County indicated that 13% of children were food insecure, 52% of 3-4 year olds were not in school, 74% of 2-yr olds were immunized and 8 children per 1000 were victims of abuse.*

*But prior to the pandemic, our systems and policies were failing children & families & now those with existing inequities have worsened. New preliminary data from OCO shows that the pandemic is taking a heavy toll on Oregon families with children (see attachment & <https://ourchildrenoregon.org/our-work/research-data/#interactive-data>).*

*1. Food Insecurity - nearly 1-8 households (12%) of Oregon households with children report sometimes or always they did not have enough to eat. (anecdote: Oregon City school districts have organized CARE Connect teams to visit at risk families (300) with food, resources & connections to school based learning).*

*2. Housing -- 13% of people in households had slight confidence or no confidence at all they would be able to meet their next rent or mortgage payment*

*3. Health Insurance -- 11% of adults in households with children currently do not have health insurance & 33% say they have delayed medical care*

*But the most distressing outcome is*

*4. \*Mental Health Care -- Nearly a quarter 24% of people in households with children reported that they felt down, depressed, or hopeless in the previous week.*

*There is much to do for the health & well being of children & families in the County as we transition from this Pandemic. It's also a time to try new creative ideas to address old persistent problems/issues of child abuse/neglect in our county as well as review and develop new processes & systems of addressing child abuse.*

*\* How do we support families to provide safety & resiliency when all "normal" systems have been disrupted?*

*\* How do we ensure families can meet basic needs?*

*\* How to address the existing inequities of racial equity, diversity and economic disparity that the pandemic has worsened? (<http://ourchildrenoregon.org>)*

*The Clackamas County MDT Intervention Plan focuses on three main areas of support and development.*

*1. Mental Health support --, development of resources, training for families and children, schools, therapists (through training), training and support for MDT partners, suicide prevention training through partnerships with other County agencies, education, materials, development of new models of prevention.*

*2. Training opportunities for MDT partners and staff -- Conferences, speakers, training, Protocol training, Child Abuse 101 for all the new staff in the County..*

*3. School Support and Collaboration -- improved communication and collaboration, providing education & training opportunities providing mental health support to families & children.*

*As we look forward there are many challenges; there have been so many profound changes in the lives of many & unknown what the needs and effects are or will be on children, neglect and abuse, once we return to a more "normal" life. In addition, all MDT partners are adapting to new ways doing business & delivering services. Michael Ralls, Director of Student Services at No. Clackamas School District noted at one of our meetings, that 23 important systems had to be readjusted and adapted every time there were changes in school closures, openings.*

*One interesting positive data point in Clackamas County is the data collected over the last 3 years by the MDT P & M Subcommittee which tracks abuse & neglect referrals from DHS referral, to LEA, to CC & prosecution. Our data showed as of April 2021, we have been assessing referrals, assessment & prosecution at about 85% of our pre pandemic levels.. (See attachment P & M Data)*

3. Describe how your county addresses the needs described in #2 above in a comprehensive manner, ie what is your intervention plan? \*

Clackamas Co. MDT will address the needs identified above through leadership, work and action of the MDT Subcommittees in partnership and support with our MDT partners (DHS, LEA, CWS, CC PH, CC BH to name a few)

The active MDT subcommittees involved include:

1. **Training Subcommittee** – MDT has always supported training of MDT partners and staff and set aside a specific budget for this item. Training monies help to keep staff up to date, train new staff on policies and procedures, provide educational opportunities through conferences, speakers, monthly educational speakers, presentations and training on topical issues, i.e., suicide prevention and strive to support all partners in training – DA, DHS, LEA, Mental Health, Schools, Public Health.
  2. **Mental Health Collaborative** – This is a very active subcommittee chaired by Karen Corban at the Children's Center and includes @ 30 mental health agencies in Clackamas County who meet monthly to share resources, training opportunities and provide educational presentations. They serve a very important role in connecting mental health agencies in the County on what is available, what needs to be done, what training is needed.
  3. **MDT School Subcommittee (SOS)** began in 2017 & is chaired by Scott Healy, MDT Chair, is focused on assisting and supporting CC schools and staff and developing better communication, coordination & collaboration on school legislation affecting reporting and interviewing on child abuse issues, mandatory reporting as well as providing any kind of mental health support, training going forward after this year of the pandemic effects.
  4. **MDT Policy & Management Subcommittee** is an executive committee of the MDT comprising the 8 essential MDT members chaired by Scott Healy, which meets quarterly to look at system issues and policy and tracks data from intervention to prosecution on child abuse and neglect. Data helps identify problems/issues/training in the system that need addressing.
  5. **Case Review Subcommittee** maintains importance of partnerships communication and collaboration on working as a multidisciplinary team. Team is chaired by Jeff Lisenbee at DHS and meets monthly. Often system issues are identified early and we are able to intervene and bring to attention of larger MDT.
  6. **Child Fatality Review Subcommittee** – Smaller MDT Committee required to review child fatalities in the County & helps identify prevention issues and risks to safety of children in County.
  7. **HBB (Healthy Boundaries & Behaviors) Formerly RISK**  
MDT Coordinator facilitates and coordinates this vital subcommittee working with children under age 11 with problematic sexual behaviors (PSB) along with outreach, support and treatment provided by Children's Center Family Support. Committee meets monthly regularly and has solid and committed membership from DHS, DA, CC BH, Juvenile, LEA. Goal is to increase education about this Committee and the resources it provides to the community working with these children. Research continues to indicate early intervention is important in impacting these behaviors.
4. Describe how the county's protocols are part of the intervention plan. \*
- County's protocol provides the framework for MDT partners to work in a multidisciplinary way to improve systems of child abuse intervention, assessment, advocacy, prosecution of child abuse in the County and directs us in looking at system issues and problems in the County.  
The current protocol and its appendices latest revision in March 2020 was reviewed by a multi-disciplinary team of MDT partners. The appendices directly explain and outline the responsibilities of MDT subcommittees (HBB, Training, Child Fatality). The Intervention plan integrates with the goals and processes described in the Protocol.
5. Describe how the intervention plan prioritizes funding a children's advocacy center and how the funding supports the center. \*
- The Clackamas County MDT has been strongly committed to the development and growth of our child advocacy center and providing victims and family access to a quality medical assessment center. This has been the primary goal and a critical need determined by our county MDT since 2002. The Children's Center continues to grow, adapt and provide quality services to our children and families. This past year has been challenging – pandemic, fires, ice storms, school closures and organizational changes (new Executive Director) but Children's Center has been able to maintain their level of services at 85% serving 400 children, providing 266 medical exams, conducting 212 interviews and providing onsite mental health counseling to 35 families.  
91% of MDT funding is devoted to the Children's to maintain quality medical assessment, outreach and education to families and partners in the County and continue to expand services (treatment). The Children's Center is essential and vital in carrying out the goals of the MDT, not only providing quality interviews, medical assessments, but family support services, treatment, and education/training to community partners.  
The Children's Center supports the MDT goals and Intervention Plan – providing for the safety of child foremost, assessments in a non-threatening environment, education, outreach to other county stakeholders, coordination of county response and communication among agencies through increased case reviews and outreach educational efforts to medical providers and diverse communities (bilingual staff).  
The Children's Center is an essential partner and supporter of all MDT functions and subcommittee work. Children's Center representation, input and data are a vital part of all MDT tasks – budget, protocol review, training, case reviews, and data collection.  
MDT funding is a stable funding source for Children's Center helping them maintain their quality services and medical assessments, adapting to the needs of the community with staffing and resources needed, assist in training needs to maintain a very qualified staff.
6. Designated Medical Professional Information
- a. Does your county have a Designated Medical Professional? (DMP) \*
 

<input checked="" type="checkbox"/> Yes	No *
---	------
  - b. DMP Name: *Children's Center*
  - c. Professional Designation: \*
 

<input checked="" type="checkbox"/> Doctor
Physician's Assistant
Nurse Practitioner
Phone: (503) 655-7725
Email: <i>office@childrenscenter.cc</i>
  - d. According to national best practices in child abuse medical assessment, at least 50% of all findings deemed abnormal or "diagnostic" of trauma from abuse should be peer reviewed. Is practice in your county consistent with this standard? \*
 

<input checked="" type="checkbox"/> Yes	No
---	----

 If no, why not?
  - e. How many hours of specialized training in child abuse assessment has your DMP received in the past 2 years? \*  
150
- \* According to national best practices, medical professionals providing services should receive a minimum of 8 hours of training every two years. For more information on national best practice guidelines for medical providers, please see the Requirements and Credentialing Entity (NCA 2017 Standards page 57) for Physicians, NPs and PAs included in the RFA.
- f. Please indicate source and date of DMP's training in child abuse medical assessment as described in ORS 418.782(5). \*
- Attached in the Uploads section is the date and source of DMP's training for Dr. Lang, NP Gabrielle Petersen & NP Jen Stephen & NP Chris Smith.
- g. If the team has not been able to identify a DMP, ORS 418.747(12) requires the team to develop a written plan outlining the necessary steps, recruitment and training needed to make such a DMP available to the children of the county. Please describe your plan and the steps you have taken since your last grant application. \*
7.  By checking this box, the MDT agrees to make the MDT Protocols available to the CAMI Program for review upon request.

E. Project Goals, Objectives, Activities, and Performance Measures

Instructions:

- Complete this page and click **SAVE**, fields will populate with information and any errors will be noted.
- Required fields are marked with a \*.

Use the table below to report MDT goals, objectives, activities, and outcomes.

You may:

1. select the model goal and one or more of the model objectives,
2. create your own goal(s) and objective(s) or
3. select both the model goal and one or more of the model objectives.

If you select the model goal: You must select at least one of the model objectives by adding information to the related activities, target outputs and two year total output numbers.

If you create your own goal: select the appropriate box and an empty grid will be available for you to populate. You may create up to 3 goals, each with up to 3 activities, outputs, and outcomes.

1. Check the box for the logic model goals and objectives you would like to create:

- A. Model Goal and one or more of the model objectives.
- B. Create your own goal(s) and Objectives.
- C. Both - model goal and one or more of the model objectives and create your own goal(s) and objective(s).

Model Goal

a. Goal

All children in the county with reported concerns of child abuse and neglect will receive a coordinated community response to ensure their health and safety.

	b. Objectives	c. Activities	d. Target Outputs	e. Two Year Total Output Numbers	f. Outcomes
1.	<b>MDT Coordination and Response</b>  Coordinate every child abuse intervention including forensic interviews, medical evaluations, mental health services and other services for children with concerns of abuse	<b>Conduct regular</b> <i>Monthly(insert weekly, every-other-week, monthly)</i> case review meetings with the MDT so that all new cases of suspected child abuse can be staffed and all members of the MDT can provide history and input relevant to case planning	<b>The MDT will meet</b> <i>Monthly (frequency: weekly, every other week, etc.)</i>	<b>48(total number of meetings)</b>	Improved communication and coordination among the agencies and organizations tasked with the investigation and response to child abuse cases.
2.	<b>Medical Assessment/CAIC Services</b>  Provide medical assessments to infants and children up to 18 year olds with concerns of child abuse or neglect	Children for whom there is concern they may have been victims of abuse or neglect will be referred for a medical examination, forensic interview, and/or other services by specially trained providers.	<b>The MDT will refer</b> <i>700(number of children)</i> children during the two year grant period.	<b>700(total number of children)</b>	Children with concerns of child abuse and neglect will be assisted in the healing process by being provided appropriate services from professionals with child abuse expertise including appropriate treatment, referrals, and collection of evidence.
3.	<b>MDT Member Training</b>  MDT members will be trained in risk assessment, dynamics of child abuse, child sexual abuse and rape of children and legally sound and age appropriate interview and investigatory techniques	The MDT Coordinator will provide information about relevant trainings and reminders of the MDT training requirements at each MDT meeting	<b>24 (number of meeting reminders)</b> during the two year grant period	<b>24(total number of training reminders)</b>	MDT Members will have current knowledge and understanding of child abuse intervention related topics applicable to their work.
4.	<b>Protocols</b>  MDT members will have an accurate guide to current MDT practices	The MDT will convene to regularly to discuss procedural and process issues.	<i>biennially (frequency: quarterly, semi-annually, annually etc.)</i>	<b>2(total number of review meetings)</b>	Children will receive a consistent response to reports of abuse or neglect consistent with current MDT protocols.

Custom Goal #1

a. Goal

MDT Coordinator

To promote an active system-wide, coordinated approach to child abuse investigation, assessment, intervention & prosecution in Clackamas County.

	b. Objectives	c. Activities	d. Target Outputs	e. Two Year Total Output Numbers	f. Outcomes
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<p>Coordinate all and maintain data collection and activities from MDT projects, partners from intervention to prosecution for MDT reports and review.</p>	<p>Report monthly to all subcommittees &amp; to Policy &amp; Management Subcommittee quarterly on intervention to prosecution data. Report quarterly to HBB Team. Yearly data collection reports to Case Review, Child Fatality &amp; Training as needed</p>	<p>12 monthly reports to MDT &amp; subcommittees (MDT, Training, HBB, Case Review &amp; MH Collaborative). 8 quarterly HBB reports 4 quarterly data reports for Policy &amp; Management Subcommittee.</p>	<p>48</p>	<p>Monthly reports for all subcommittees keep members current and connected. Quarterly reports to Policy &amp; Management to connect intervention processes with prosecution outcomes and look at system issues, obstacles, what is working and outcomes. HBB reports provide information on age, gender, locations and needs &amp; services for MDT partners. Monthly reports to Case Review &amp; Training subcommittees provides state and county with assessment, intervention, prosecution and prevention data as well as information on systemic issues, needs, services, gaps and trends. Training reports identify needs, requests, trends &amp; focus on keeping all MDT members trained and meeting statutory requirements.</p>
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h. Do you want to add another goal?  
 Yes       No

Custom Goal #2

a. Goal

Healthy Behaviors & Boundaries (HBB) Outreach (formerly RISK)

To provide a coordinated approach to child abuse assessment and intervention with a focus on the safety of children by providing outreach and follow-up services to children, families, community agencies on children with problematic sexual behaviors.

b. Objectives	c. Activities	d. Target Outputs	e. Two Year Total Output Numbers	f. Outcomes
<p>Increase referrals &amp; provide outreach, intervention, support, referral for services, and follow-up to HBB referrals</p>	<p>Additional funding to increase and identify new referral sources. Provide additional educational presentations to community partners about HBB resources. Provide outreach support to families &amp; education through phone contact, consultation, resources, referral to treatment providers and other educational opportunities - parenting groups and/or classes.</p>	<p>10 Educational presentations &amp; outreach to community agencies -- LEA, DHS, CWS, Schools. Provide outreach and resources to 75 families by Children's Center Outreach.</p>	<p>170</p>	<p>Educate the community about this valuable resource for children with PSB; cultivate new sources of referrals since the change to State Hotline decline in referrals. Provide an early intervention with these families which research shows is impactful. Assist, support and follow families in getting services.</p>

h. Do you want to add another goal?  
 Yes       No

Custom Goal #3

a. Goal

Training Subcommittee

Provide members and those conducting investigations, interviews, advocacy, assessment and treatment of child abuse victims training in risk assessment, dynamics of child abuse and child sexual abuse, educational and legally sound appropriate techniques.

b. Objectives	c. Activities	d. Target Outputs	e. Two Year Total Output Numbers	f. Outcomes
---------------	---------------	-------------------	----------------------------------	-------------

<p>Provide educational presentations using local &amp; MDT expertise as well as access to new virtual training opportunities.</p>	<p>MDT sponsored training on topical issues, on diverse needs and broader definition of child abuse to include human trafficking, children &amp; victims in DV cases, drug endangered children</p>	<p>Provide 3-4 trainings a year through various modes.</p>	<p>8</p>	<p>Shares MDT expertise with partners. Trainings are adapted to partners needs, time limitations and are of no cost. Brings topical issues to awareness of MDT members. Provides training to new County staff. Broadens perspective and promotes best practices &amp; consistent with purposes and goals of CAMI program. Maintains statutory obligations to ensure MDT members are adequately trained</p>
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## F. Contractor Information

## Instructions:

- Read the instructions before completing this page which can be found in the Request for Applications: Form Instructions.
- Complete this page and click **SAVE**, fields will populate with information and any errors will be noted.
- Required fields are marked with a \*.
- Double-click on a radio button to uncheck it.

CVSSD expects that strong partnerships will be developed for project implementation purposes and to ensure that the project is effectively responding to the needs of the population being served. For any formal partnerships that do not involve an exchange of funds, a Memorandum of Understanding must be used. **If grant funds will be paid to an outside entity a contract must be executed.**

**A. CONTRACTS** - A contract is required when these grant funds will be used to obtain goods or services from an outside entity (contractor) including a CAC unless the CAC is the applicant. If this application will include contracting, you must respond to the following questions. For information on state contracting requirements, click [here](#).

## 1. Proposed Contract #1

a. **Name of proposed contractor:**

*Children's Center*

b.  Applicant has determined that the proposed agreement is a contractual relationship.

c. Did the applicant follow procurement procedures that meet state standards?

Yes  No

If no, please explain:

d. Is this a sole source contract?

Yes  No

e. Describe the specific product or service the contract is intended to address:

*Children's Center is the recognized DMP in our county. CC provides child abuse medical assessments, including complete physical exams to determine possible abuse and/or need for further treatment, crisis intervention & referral services.*

f. Describe how the applicant determined that contracting was the most efficient and effective manner to purchase the good or service:

*Children's Center is located in Clackamas County and only recognized DMP & CAC and can provide services mandated by CAMI grant.*

g. Describe the solicitation efforts that were conducted to select the contractor (if using sole source and no solicitation efforts were made, explain why not):

*Children's Center is located in Clackamas County and only recognized DMP & CAC and can provide services mandated by CAMI grant.*

h. Describe the unique qualifications, abilities or expertise of the contractor to deliver the product or service (if using sole source, also explain why it was necessary to contract non-competitively and how long it would take another contractor to reach the same level of competency):

*Children's Center is only CAC in Clackamas County with trained forensic interviewers, recognized pediatricians certified in child abuse and maintains high standards for all staff -- interviewers, intake support and family support.*

i. Please upload the applicable contract. Click [here](#) to view the required minimum elements of a contract.

j. Is there an additional contract to include?

Yes  No

## 2. Proposed Contract #2

a. **Name of proposed contractor:**

*MDT Coordinator*

b.  Applicant has determined that the proposed agreement is a contractual relationship.

c. Did the applicant follow procurement procedures that meet federal standards?

Yes  No

If no, please explain:

d. Is this a sole source contract?

Yes  No

e. Describe the specific product or service the contract is intended to address:

*MDT Coordinator provides coordination, communication and administrative support to assist team in meeting MDT & CAMI goals.*

f. Describe how the applicant determined that contracting was the most efficient and effective manner to purchase the good or service:

*Several years ago it was determined to contract out the MDT coordinator position. Going forward, there is a possible discussion of converting position to DA position.*

g. Describe the solicitation efforts that were conducted to select the contractor (if using sole source and no solicitation efforts were made, explain why not):

*Standard hiring practice -- application, interviews and selection by multiple MDT partner committee.*

h. Describe the unique qualifications, abilities or expertise of the contractor to deliver the product or service (if using sole source, also explain why it was necessary to contract non-competitively and how long it would take another contractor to reach the same level of competency):

*Contractor has a master's level degree in counseling and a teaching degree, experience in coordination, communication, leadership and development of projects, educational training, teams, writing curriculum, writing grants and delivering social services. Contractor has experience in working with & coordinating with multiple partners and agencies on projects, curriculum and maintaining relationships and connections among agencies.*

i. Please upload the applicable contract. Click [here](#) to view the required minimum elements of a contract.

j. Is there an additional contract to include?

Yes   No

## 3. Proposed Contract #3

a. **Name of proposed contractor:**

- b. Applicant has determined that the proposed agreement is a contractual relationship.
- c. Did the applicant follow procurement procedures that meet federal standards?  
Yes  No   
If no, please explain:
- d. Is this a sole source contract?  
Yes  No
- e. Describe the specific product or service the contract is intended to address:
- f. Describe how the applicant determined that contracting was the most efficient and effective manner to purchase the good or service:
- g. Describe the solicitation efforts that were conducted to select the contractor (if using sole source and no solicitation efforts were made, explain why not):
- h. Describe the unique qualifications, abilities or expertise of the contractor to deliver the product or service (if using sole source, also explain why it was necessary to contract non-competitively and how long it would take another contractor to reach the same level of competency):
- i. Please upload the applicable contract. Click [here](#) to view the required minimum elements of a contract.
- j. Is there an additional contract to include?  
Yes  No

**4. Proposed Contract #4**

- a. **Name of proposed contractor:**
- b. Applicant has determined that the proposed agreement is a contractual relationship.
- c. Did the applicant follow procurement procedures that meet federal standards?  
Yes  No   
If no, please explain:
- d. Is this a sole source contract?  
Yes  No
- e. Describe the specific product or service the contract is intended to address:
- f. Describe how the applicant determined that contracting was the most efficient and effective manner to purchase the good or service:
- g. Describe the solicitation efforts that were conducted to select the contractor (if using sole source and no solicitation efforts were made, explain why not):
- h. Describe the unique qualifications, abilities or expertise of the contractor to deliver the product or service (if using sole source, also explain why it was necessary to contract non-competitively and how long it would take another contractor to reach the same level of competency):
- i. Please upload the applicable contract. Click [here](#) to view the required minimum elements of a contract.
- j. Is there an additional contract to include?  
Yes  No

**5. Proposed Contract #5**

- a. **Name of proposed contractor:**
- b. Applicant has determined that the proposed agreement is a contractual relationship.
- c. Did the applicant follow procurement procedures that meet federal standards?  
Yes  No   
If no, please explain:
- d. Is this a sole source contract?  
Yes  No
- e. Describe the specific product or service the contract is intended to address:
- f. Describe how the applicant determined that contracting was the most efficient and effective manner to purchase the good or service:
- g. Describe the solicitation efforts that were conducted to select the contractor (if using sole source and no solicitation efforts were made, explain why not):
- h. Describe the unique qualifications, abilities or expertise of the contractor to deliver the product or service (if using sole source, also explain why it was necessary to contract non-competitively and how long it would take another contractor to reach the same level of competency):

i. Please upload the applicable contract. Click [here](#) to view the required minimum elements of a contract.

j. Is there an additional contract to include?  
 Yes No

**6. Proposed Contract #6**

a. **Name of proposed contractor:**

b. Applicant has determined that the proposed agreement is a contractual relationship.

c. Did the applicant follow procurement procedures that meet federal standards?  
 Yes No  
 If no, please explain:

d. Is this a sole source contract?  
 Yes No

e. Describe the specific product or service the contract is intended to address:

f. Describe how the applicant determined that contracting was the most efficient and effective manner to purchase the good or service:

g. Describe the solicitation efforts that were conducted to select the contractor (if using sole source and no solicitation efforts were made, explain why not):

h. Describe the unique qualifications, abilities or expertise of the contractor to deliver the product or service (if using sole source, also explain why it was necessary to contract non-competitively and how long it would take another contractor to reach the same level of competency):

i. Please upload the applicable contract. Click [here](#) to view the required minimum elements of a contract.

j. Is there an additional contract to include?  
 Yes No

**7. Proposed Contract #7**

a. **Name of proposed contractor:**

b. Applicant has determined that the proposed agreement is a contractual relationship.

c. Did the applicant follow procurement procedures that meet federal standards?  
 Yes No  
 If no, please explain:

d. Is this a sole source contract?  
 Yes No

e. Describe the specific product or service the contract is intended to address:

f. Describe how the applicant determined that contracting was the most efficient and effective manner to purchase the good or service:

g. Describe the solicitation efforts that were conducted to select the contractor (if using sole source and no solicitation efforts were made, explain why not):

h. Describe the unique qualifications, abilities or expertise of the contractor to deliver the product or service (if using sole source, also explain why it was necessary to contract non-competitively and how long it would take another contractor to reach the same level of competency):

i. Please upload the applicable contract. Click [here](#) to view the required minimum elements of a contract.

j. Is there an additional contract to include?  
 Yes No

**8. Proposed Contract #8**

a. **Name of proposed contractor:**

b.

c. Did the applicant follow procurement procedures that meet federal standards?  
 Yes No  
 If no, please explain:

d. Is this a sole source contract?  
 Yes No

e. Describe the specific product or service the contract is intended to address:

- f. Describe how the applicant determined that contracting was the most efficient and effective manner to purchase the good or service:
- g. Describe the solicitation efforts that were conducted to select the contractor (if using sole source and no solicitation efforts were made, explain why not):
- h. Describe the unique qualifications, abilities or expertise of the contractor to deliver the product or service (if using sole source, also explain why it was necessary to contract non-competitively and how long it would take another contractor to reach the same level of competency):
- i. Please upload the applicable contract. Click [here](#) to view the required minimum elements of a contract.
- j. Is there an additional contract to include?  

Yes	No
-----	----

**9. Proposed Contract #9**

- a. **Name of proposed contractor:**
- b. Applicant has determined that the proposed agreement is a contractual relationship.
- c. Did the applicant follow procurement procedures that meet federal standards?  

Yes	No
-----	----

 If no, please explain:
- d. Is this a sole source contract?  

Yes	No
-----	----
- e. Describe the specific product or service the contract is intended to address:
- f. Describe how the applicant determined that contracting was the most efficient and effective manner to purchase the good or service:
- g. Describe the solicitation efforts that were conducted to select the contractor (if using sole source and no solicitation efforts were made, explain why not):
- h. Describe the unique qualifications, abilities or expertise of the contractor to deliver the product or service (if using sole source, also explain why it was necessary to contract non-competitively and how long it would take another contractor to reach the same level of competency):
- i. Please upload the applicable contract. Click [here](#) to view the required minimum elements of a contract.
- j. Is there an additional contract to include?  

Yes	No
-----	----

**10. Proposed Contract #10**

- a. **Name of proposed contractor:**
- b. Applicant has determined that the proposed agreement is a contractual relationship.
- c. Did the applicant follow procurement procedures that meet federal standards?  

Yes	No
-----	----

 If no, please explain:
- d. Is this a sole source contract?  

Yes	No
-----	----
- e. Describe the specific product or service the contract is intended to address:
- f. Describe how the applicant determined that contracting was the most efficient and effective manner to purchase the good or service:
- g. Describe the solicitation efforts that were conducted to select the contractor (if using sole source and no solicitation efforts were made, explain why not):
- h. Describe the unique qualifications, abilities or expertise of the contractor to deliver the product or service (if using sole source, also explain why it was necessary to contract non-competitively and how long it would take another contractor to reach the same level of competency):
- i. Please upload the applicable contract. Click [here](#) to view the required minimum elements of a contract.

## G. Attachments to Upload

## Instructions:

- Complete this page and click **SAVE**, fields will populate with information and any errors will be noted.
- Required fields are marked with a \*.

**1. Certified Assurances**

Please upload the Certified Assurance page, signed by the MDT Chair. [The form for this can be found by clicking here.](#)

**Sample MDT Attendance Sheet**

- 2.** Please upload a sample copy of your MDT Attendance Sheet, which must include the MDT's Confidentiality Statement. Please be advised that the Confidentiality Statement must be included on the attendance sheet for each and every MDT meeting. The sign in form should contain the following information: County, Space for meeting date, confidentiality statement, space for attendee name (printed), agency, and signature. A sample MDT Attendance Sheet with Confidentiality Statement can be found [here](#).

**Memorandums of Understanding**

- 3.** The MOU is a document containing the terms of the partnership and the roles and responsibilities between two or more parties. If the Intervention Plan indicates a formal collaboration an MOU must be completed, signed, and dated by the authorized representatives.

Please upload the applicable Memorandum(s) of Understanding. A sample version of the form can be found [here](#).

H. Personnel

Instructions:

- Complete this page and click **SAVE**, any calculations will be performed and any errors will be noted.
- Required fields are marked with a \*.
- Once the page has been saved with no errors, you can click **ADD** to add additional staff.

1.	<b>Staff Name:</b>			
2.	<b>Position Title:</b>			
3.	<b>Salary funded by this grant:</b>			
4.	<b>Total salary for full-time equivalent (1 FTE):</b>			
		Please provide details as to how the proposed CAMI funded salary was calculated:		
5.	<b>Personnel expenses funded by this grant:</b>			
6.	<b>Total personnel expenses for full-time equivalent (1 FTE):</b>			
		Please provide details as to how the proposed CAMI funded personnel expenses were calculated:		
7.	<b>FTE funded by this grant:</b>			
8.	<b>Please indicate which CAMI Services Area(s) this staff will address. Refer to the Show Help for definitions of each service area: *</b>			
	Assessment Services	Advocacy Services	Treatment Services	Other
9.	<b>What activities will this person perform with the FTE funded by CAMI during the grant period?</b>			

## I. Contracts

## Instructions:

- Complete the page and click **SAVE**, calculations will run and any errors will be noted at this point.
- Each contractor's name will be autopopulated from Form F. Contractor Information. All other information will need to be completed for each contract.

**Proposed Contract #1**

Name of proposed contractor: *Children's Center*  
Contract Period: *July 1, 2021 to June 30, 2023*  
Contract Amount: *850,000.45*  
Payment Terms: *quarterly*

**Proposed Contract #2**

Name of proposed contractor: *MDT Coordinator*  
Contract Period: *July 1, 2021 to June 30, 2023*  
Contract Amount: *63,000.00*  
Payment Terms: *monthly*

**Proposed Contract #3**

Name of proposed contractor:  
Contract Period:  
Contract Amount:  
Payment Terms:

**Proposed Contract #4**

Name of proposed contractor:  
Contract Period:  
Contract Amount:  
Payment Terms:

**Proposed Contract #5**

Name of proposed contractor:  
Contract Period:  
Contract Amount:  
Payment Terms:

**Proposed Contract #6**

Name of proposed contractor:  
Contract Period:  
Contract Amount:  
Payment Terms:

**Proposed Contract #7**

Name of proposed contractor:  
Contract Period:  
Contract Amount:  
Payment Terms:

**Proposed Contract #8**

Name of proposed contractor:  
Contract Period:  
Contract Amount:  
Payment Terms:

**Proposed Contract #9**

Name of proposed contractor:  
Contract Period:  
Contract Amount:  
Payment Terms:

**Proposed Contract #10**

Name of proposed contractor:  
Contract Period:  
Contract Amount:  
Payment Terms:

**Total**

Total contract costs: *\$913,000.45*



J. Other Costs

Instructions:

- Please complete this page and click SAVE, fields will populate with information and any errors will be noted at this point.
Required fields are marked with a \*.

1. Travel
Total travel costs funded by this grant:
Please indicate which CAMI Services Area(s) these costs will address. Refer to the RFA for definitions of each service area:
Assessment Services Advocacy Services Treatment Services Other
Please describe the travel expenses of project staff (travel to attend meetings, travel for outreach, client transport, and any other travel not related to attendance at training), show the basis of the computation (# of miles, cost per mile), and explain how the travel costs are necessary and beneficial to the program:

2. Training (please keep in mind CAMI Program training requirements outlined in Form E when planning and budgeting for training costs)
Government Per Diem Rates

Table with 8 columns: Title and Location, Approximate Date, # of Attendees, Reg. Cost, Travel Cost, Lodging Cost, Meal Per Diem Cost, Total Cost. It contains two rows of training data and a summary row at the bottom.

Please indicate which CAMI Services Area(s) these costs will address. Refer to the RFA for definitions of each service area:

Assessment Services Advocacy Services Treatment Services Other

Please provide a brief description of each training, the calculations for how the training costs were determined, and an explanation of how the training is necessary and beneficial to the program:
MDT focuses on benefit of allotting training funds for members & staff to keep all staff well trained & updated in best practices. In previous years, 80% of our budget was set aside for Summit scholarships. COVID has initiated a new way to deliver training online & made the availability & cost of major conferences & training available to many more staff. MDT also provides training to team through monthly educational presentations & special trainings on current timely topics in County.

3. Office Supplies
Total office supply costs funded by this grant: 700.00
Please indicate which CAMI Services Area(s) these costs will address. Refer to the RFA for definitions of each service area:
Assessment Services Advocacy Services Treatment Services Other
General office supplies, postage, printing/copying, and equipment should all be included here. Please describe how these costs will benefit the program:
Supplies support MDT process - paper, folders, binders, USB backup, printer cartridges, supplies for record keeping and handouts (and online) for monthly meetings, trainings, handouts for subcommittees, such as HBB, School Subcommittee, Policy & Management Committee, Mental Health Collaborative, Child Fatality and general office supplies.

4. Agency Rent/Utilities
Total agency rent/utilities costs funded by this grant:
Please indicate which CAMI Services Area(s) these costs will address. Refer to the RFA for definitions of each service area:
Assessment Services Advocacy Services Treatment Services Other
Please describe how these costs will benefit the program:

5. Emergency Services
Total emergency service costs funded by this grant:
Please indicate which CAMI Services Area(s) these costs will address. Refer to the RFA for definitions of each service area:
Assessment Services Advocacy Services Treatment Services Other
Please describe how these costs will benefit the program:

6. Capital Outlay
Total capital outlay costs funded by this grant:
Please indicate which CAMI Services Area(s) these costs will address. Refer to the RFA for definitions of each service area:
Assessment Services Advocacy Services Treatment Services Other
Please describe how these costs will benefit the program:

7. 5% Administrative
Total administrative costs funded by this grant:
Please indicate which CAMI Services Area(s) these costs will address. Refer to the RFA for definitions of each service area:
Assessment Services Advocacy Services Treatment Services Other

Please describe how these costs will benefit the program:

8.

**Other**

Total other costs funded by this grant:

Please indicate which CAMI Services Area(s) these costs will address. Refer to the RFA for definitions of each service area:

Assessment Services      Advocacy Services      Treatment Services      Other

Please describe how these costs will benefit the program:

Total other costs funded by this grant:

Please indicate which CAMI Services Area(s) these costs will address. Refer to the RFA for definitions of each service area:

Assessment Services      Advocacy Services      Treatment Services      Other

Please describe how these costs will benefit the program:

Total other costs funded by this grant:

Please indicate which CAMI Services Area(s) these costs will address. Refer to the RFA for definitions of each service area:

Assessment Services      Advocacy Services      Treatment Services      Other

Please describe how these costs will benefit the program:

K. Budget Summary

Instructions:

- This page shows an overall summary of your proposed budget.
- The information below is being populated from Forms H, I, and J.. Please go to those forms to make changes as needed.
- Click **SAVE** to calculate the totals on this page.

1.

**Total Grant Funds Requested:**

\$939,332.45

2.

**Allowable Administrative Funds:**

\$46,966.62

3.

Grant Funds

<b>Personnel</b>	Total
Salary	\$
Personnel Expenses	\$
<b>Total Personnel</b>	\$0.00
<b>Other Costs</b>	Total
Contractual Services	\$913,000.45
Travel	\$
Training	\$25,632.00
Office Supplies	\$700.00
Agency Rent/Utilities	\$
Emergency Services	\$
Capital Outlay	\$
5% Administrative	\$
Other	\$0.00
<b>Total Other Costs</b>	\$939,332.45
<b>Total Funds</b>	\$939,332.45

Attachments

Instructions:

- Please enter a brief description of the attachment.
- To attach an electronic file, press "BROWSE", choose the desired file and select "SAVE".
- For each additional attachment, first choose "ADD" and then complete the steps listed above.

Description  
File name  
Comments

*Medical Provider Training -- 2017 to present*

*MDT collects data quarterly from partners (DHS, LEA, Children's Center and DA) tracking number of child abuse referrals from referral to prosecution.*

Attachments

Instructions:

- Please enter a brief description of the attachment.
- To attach an electronic file, press "BROWSE", choose the desired file and select "SAVE".
- For each additional attachment, first choose "ADD" and then complete the steps listed above.

Description

*Medical Provider Training -- 2017 to present*

File name

Comments

*MDT collects data quarterly from partners (DHS, LEA, Children's Center and DA) tracking number of child abuse referrals from referral to prosecution.*

Attachments

Instructions:

- Please enter a brief description of the attachment.
- To attach an electronic file, press "BROWSE", choose the desired file and select "SAVE".
- For each additional attachment, first choose "ADD" and then complete the steps listed above.

Description  
File name  
Comments

*Medical Provider Training -- 2017 to present*

*MDT collects data quarterly from partners (DHS, LEA, Children's Center and DA) tracking number of child abuse referrals from referral to prosecution.*

Fund Coordinator/Grantee Notes

Date & Subject:  
Comments:







**Department of Finance**

Elizabeth Comfort  
Finance Director

**Procurement & Contracting Services**

Public Services Building  
2051 Kaen Road, Oregon City, OR 97045

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Contract with Matt C. Westbrook, LLC for  
Compliance and Subrecipient Monitoring Services

<b>Purpose/Outcome</b>	Compliance and Subrecipient Monitoring Services Required By the Uniform Grant Guidance (2 CFR 200)
<b>Dollar Amount and Fiscal Impact</b>	Total Contract value not to exceed \$250,000. Contractor to bill time and materials at a rate of \$60 per hour.
<b>Funding Source</b>	Funded by cost allocation through the Finance Department budget, some allocations will be paid from General Funds.
<b>Duration</b>	From Contract execution to November 30, 2023.
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	1. Ensure Financial Transparency and Accountability 2. Builds Public Trust through Good Government
<b>County Counsel Review</b>	Reviewed Date: 10-28-2021; ARN
<b>Procurement Review</b>	1. Was this item processed through Procurement? <input checked="" type="checkbox"/> yes <input type="checkbox"/> no 2. If no, provide a brief explanation:
<b>Contact Person</b>	Christa Bosserman Wolfe, 503-742-5407
<b>Contract No.</b>	4782

**BACKGROUND:**

As a recipient of Federal financial assistance, the County must comply with all aspects of the Uniform Grant Guidance (2 CFR 200) promulgated by the Office of Management and Budget. These regulations required very specific and detailed requirements for pass through grants, known as subrecipient agreements. After a failed recruitment for a permanent FTE to provide these services, the Finance Department pivoted and issued a Request of Proposal to find a suitable contractor to provide the services. Current services are provided by Matt C Westbrook, LLC under a separate contract that expires October 31, 2021.

If approved by the Board of County Commissioners, this contract provide necessary and required services for to maintain the County's Federal financial assistance compliance and subrecipient monitoring program.

The Contract has been reviewed and approved by County Counsel.

**PROCUREMENT PROCESS:**

This project was advertised in accordance with ORS and LCRB Rules on August 12, 2021. Proposals were opened on September 13, 2021. The County received five (5) proposals from: Booth Management Consulting, Calyptus Consulting Group, Macias Gini & O'Connell, LLP, Matt C Westbrook, LLC and Moss Adams. The evaluation committee consisted of three county employees. The evaluation committee recommended that Matt C Westbrook, LLC be awarded the Contract. A notice of intent to award and no protests were received.

**RECOMMENDATION:** Staff respectfully recommends the Board approve this Contract.

Sincerely,

*Elizabeth Comfort*

Elizabeth Comfort  
Finance Director

Placed on the BCC Agenda \_\_\_\_\_ by Procurement and Contract Services



**CLACKAMAS COUNTY  
PERSONAL SERVICES CONTRACT  
Contract #4782**

This Personal Services Contract (this “Contract”) is entered into between **Matt C. Westbrook, LLC** (“Contractor”), and Clackamas County, a political subdivision of the State of Oregon (“County”) on behalf of the Department of Finance.

**ARTICLE I.**

1. **Effective Date and Duration.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **November 30, 2023**.
2. **Scope of Work.** Contractor shall provide the following personal services: Compliance and Subrecipient Monitoring RFP 2021-68 (“Work”), further described in **Exhibit A and Exhibit B**.
3. **Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed two hundred and fifty thousand dollars (**\$250,000.00**), for accomplishing the Work required by this Contract. Consideration rates are on a time and materials basis at \$60.00 per hour and in accordance with the rates and costs specified in **Exhibit B**, Contractors Proposal. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.
4. **Invoices and Payments.** Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The invoices shall include the total amount billed to date by Contractor prior to the current invoice. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made in accordance with ORS 293.462 to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not be obligated to pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

Invoices shall reference the above Contract Number and be submitted to Christa Bosserman Wolfe via email at [cwolfe@clackamas.us](mailto:cwolfe@clackamas.us).

5. **Travel and Other Expense.** Authorized:  Yes  No  
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: <https://www.clackamas.us/finance/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.
6. **Contract Documents.** This Contract consists of the following documents, which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit A, and Exhibit B.

**7. Contractor and County Contacts.**

<p><b>Contractor Administrator:</b> Matt Westbrook Phone: 503-933-2091 Email: <a href="mailto:mcwestbrook@gmail.com">mcwestbrook@gmail.com</a></p>	<p><b>County Administrator:</b> Christa Bosserman Wolfe Phone: 503-758-4839 Email: <a href="mailto:cwolfe@clackamas.us">cwolfe@clackamas.us</a></p>
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Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

## **ARTICLE II.**

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor, which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
- 2. AVAILABILITY OF FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.
- 3. CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
- 4. COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time.
- 5. COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- 6. GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.
- 7. RESPONSIBILITY FOR DAMAGES; INDEMNITY.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel’s Office authority to act as legal counsel for County, nor shall Contractor

settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.

- 8. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.
- 9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. The insurance requirement outlined below do not in any way limit the amount of scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [procurement@clackamas.us](mailto:procurement@clackamas.us).

Required - Workers Compensation: Contractor shall comply with the statutory workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.027 or 656.126.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per claim, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per accident for Bodily Injury and Property Damage.
<input type="checkbox"/> Required – Abuse & Molestation endorsement with limits not less than \$1,000,000 per occurrence if not included in the Commercial General Liability policy.
<input type="checkbox"/> Required – Cyber Liability with a combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for network security (including data breach), privacy, interruption of business, media liability, and errors and omissions.

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

- 10. LIMITATION OF LIABILITIES.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Except for liability arising under or related to Article II, Section 13 or Section 20 neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.
- 11. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators

identified in Article 1, Section 6. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us). Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.

- 12. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. Notwithstanding the above, County shall have no rights in any pre-existing Contractor intellectual property provided to County by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for County use only.
- 13. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 14. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 10, 12, 13, 14, 15, 17, 20, 21, 25, 27, 28, and 30 and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.
- 15. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 16. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

- 17. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 18. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- 19. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the County (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; or (B) if contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.
- Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to County all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.
- 20. REMEDIES.** If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the goods and services delivered and accepted by the County, less any setoff to which the County is entitled.
- 21. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 22. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 23. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 24. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by events outside the County or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

**25. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

**26. PUBLIC CONTRACTING REQUIREMENTS.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes (“ORS”) Chapter 279B.220 through 279B.235, Contractor shall:

- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
- c. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.
- d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
- f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.

**27. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys’ fees and expenses.

**28. CONFIDENTIALITY.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as “Personal Information” is defined in ORS 646A.602(11)), shall be deemed to be confidential information of the County (“Confidential Information”). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County’s request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.



Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by a breach of its data security or the confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

**29. KEY PERSONS.** Contractor acknowledges and agrees that a significant reason the County is entering into this Contract is because of the special qualifications of certain Key Persons set forth in the contract. Under this Contract, the County is engaging the expertise, experience, judgment, and personal attention of such Key Persons. Neither Contractor nor any of the Key Persons shall delegate performance of the management powers and responsibilities each such Key Person is required to provide under this Contract to any other employee or agent of the Contractor unless the County provides prior written consent to such delegation. Contractor shall not reassign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the County with such Key Person's services unless the County provides prior written consent to such reassignment or transfer.

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

**SIGNATURE PAGE FOLLOWS**

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

**Matt C Westbrook, LLC**

**Clackamas County**

**Matt Westbrook** Digitally signed by Matt Westbrook  
Date: 2021.10.28 20:13:37 -04'00' 10/28/21

Authorized Signature Date

**Matt Westbrook, President**

Name / Title (Printed)

N/A West Virginia 520920 / LLC

Oregon Business Registry #

Chair

Recording Secretary Date

**Approved as to Form:**

**Andrew Naylor** Digitally signed by Andrew  
Naylor Date: 2021.10.28 16:48:41 -07'00' 10-28-2021

County Counsel Date

**EXHIBIT A**  
**RFP 2021-68 COMPLIANCE AND SUBRECIPIENT MONITORING SERVICES**  
**ISSUED: AUGUST 12, 2021**



**REQUEST FOR PROPOSALS #2021-68**

**FOR**

**COMPLIANCE AND SUB-RECIPIENT MONITORING**

**BOARD OF COUNTY COMMISSIONERS**

**TOOTIE SMITH, Chair**  
**SONYA FISCHER, Commissioner**  
**PAUL SAVAS, Commissioner**  
**MARK SHULL, Commissioner**  
**MARTHA SCHRADER, Commissioner**

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**Gary Schmidt**  
**County Administrator**

**Kim Randall**  
**Contract Analyst**

**PROPOSAL CLOSING DATE, TIME AND LOCATION**

**DATE:** September 13, 2021

**TIME:** 2:00 PM, Pacific Time

**PLACE:** [Procurement@clackamas.us](mailto:Procurement@clackamas.us)

## SCHEDULE

Request for Proposals Issued.....	August 12, 2021
Protest of Specifications Deadline.....	August 19, 2021, 5:00 PM, Pacific Time
Deadline to Submit Clarifying Questions.....	September 2, 2021, 5:00 PM, Pacific Time
Request for Proposals Closing Date and Time.....	September 13, 2021, 2:00 PM, Pacific Time
Deadline to Submit Protest of Award.....	Seven (7) days from the Intent to Award
Anticipated Contract Start Date.....	November, 2021

## TABLE OF CONTENTS

	Page
Section 1 – Notice of Request for Proposals.....	1
Section 2 – Instructions to Proposers.....	2
Section 3 – Scope of Work .....	6
Section 4 – Evaluation and Selection Criteria .....	10
Section 5 – Required Proposal Contents .....	11
Required Proposal Certification Form.....	13
Appendix #1 Clackamas County Financial Management Policy.....	14
Appendix #2 Clackamas County Financial Management Manual.....	16

**SECTION 1**  
**NOTICE OF REQUEST FOR PROPOSALS**

Notice is hereby given that Clackamas County through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, September 13, 2021** (“Closing”), to provide Compliance and Sub-recipient Monitoring Consulting Services. No Proposals will be received or considered after that time.

RFP Documents can be downloaded from the state of Oregon procurement website (“OregonBuys”) at the following address <https://oregonbuys.gov/bsa/view/login/login.xhtml>, Document No. **S-C01010-000000494**.

Prospective Proposers will need to sign in to download the information and that information will be accumulated for a Plan Holder's List. Prospective Proposers are responsible for obtaining any Addenda, clarifying questions, and Notices of Award from OregonBuys. Sealed Proposals are to be emailed to Clackamas County Procurement Services at [procurement@clackamas.us](mailto:procurement@clackamas.us).

Contact Information

Procurement Process and Technical Questions: Kim Randall via email: [krandall@clackamas.us](mailto:krandall@clackamas.us)

The Board of County Commissioners reserves the right to reject any and all Proposals not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any and all Proposals upon the finding that it is in the public interest to do so and to waive any and all informalities in the public interest. In the award of the contract, the Board of County Commissioners will consider the element of time, will accept the Proposal or Proposals which in their estimation will best serve the interests of Clackamas County and will reserve the right to award the contract to the contractor who’s Proposal shall be best for the public good.

Clackamas County encourages proposals from Minority, Women, Veteran and Emerging Small Businesses.

## SECTION 2 INSTRUCTIONS TO PROPOSERS

Clackamas County (“County”) reserves the right to reject any and all Proposals received as a result of this RFP. County Local Contract Review Board Rules (“LCRB”) govern the procurement process for the County.

**2.1 Modification or Withdrawal of Proposal:** Any Proposal may be modified or withdrawn at any time prior to the Closing deadline, provided that a written request is received by the County Procurement Division Director, prior to the Closing. The withdrawal of a Proposal will not prejudice the right of a Proposer to submit a new Proposal.

**2.2 Requests for Clarification and Requests for Change:** Proposers may submit questions regarding the specifications of the RFP. Questions must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, at the Procurement Division address as listed in Section 1 of this RFP. Requests for changes must include the reason for the change and any proposed changes to the requirements. The purpose of this requirement is to permit County to correct, prior to the opening of Proposals, RFP terms or technical requirements that may be unlawful, improvident or which unjustifiably restrict competition. County will consider all requested changes and, if appropriate, amend the RFP. No oral or written instructions or information concerning this RFP from County managers, employees or agents to prospective Proposers shall bind County unless included in an Addendum to the RFP.

**2.3 Protests of the RFP/Specifications:** Protests must be in accordance with LCRB C-047-0730. Protests of Specifications must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, or within three (3) business days of issuance of any addendum, at the Procurement Division address listed in Section 1 of this RFP. Protests may not be faxed. Protests of the RFP specifications must include the reason for the protest and any proposed changes to the requirements.

**2.4 Addenda:** If any part of this RFP is changed, an addendum will be provided to Proposers that have provided an address to the Procurement Division for this procurement. It shall be Proposers responsibility to regularly check OregonBuys for any notices, published addenda, or response to clarifying questions.

**2.5 Submission of Proposals:** Proposals must be submitted in accordance with Section 5. All Proposals shall be legibly written in ink or typed and comply in all regards with the requirements of this RFP. Proposals that include orders or qualifications may be rejected as irregular. All Proposals must include a signature that affirms the Proposer’s intent to be bound by the Proposal (may be on cover letter, on the Proposal, or the Proposal Certification Form) shall be signed. If a Proposal is submitted by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the Proposal is submitted by a corporation, it shall be signed in the name of such corporation by an official who is authorized to bind the contractor. The Proposals will be considered by the County to be submitted in confidence and are not subject to public disclosure until the notice of intent to award has been issued.

No late Proposals will be accepted. Proposals submitted after the Closing will be considered late and will be returned unopened. Proposals may not be submitted by telephone or fax.

**2.6 Post-Selection Review and Protest of Award:** County will name the apparent successful Proposer in a Notice of Intent to Award published on OregonBuys. Identification of the apparent successful Proposer is procedural only and creates no right of the named Proposer to award of the contract. Competing Proposers shall be given seven (7) calendar days from the date on the Notice of Intent to Award to review the file at the Procurement Division office and file a written protest of award, pursuant to LCRB C-047-0740. Any award protest must be in writing and must be delivered by hand-delivery or mail to the address for the Procurement Division as listed in Section 1 of this RFP.

Only actual Proposers may protest if they believe they have been adversely affected because the Proposer would be eligible to be awarded the contract in the event the protest is successful. The basis of the written protest must

be in accordance with ORS 279B.410 and shall specify the grounds upon which the protest is based. In order to be an adversely affected Proposer with a right to submit a written protest, a Proposer must be next in line for award, i.e. the protester must claim that all higher rated Proposers are ineligible for award because they are non-responsive or non-responsible.

County will consider any protests received and:

- a. reject all protests and proceed with final evaluation of, and any allowed contract language negotiation with, the apparent successful Proposer and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer; OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer as nonresponsive, if such Proposer is unable to demonstrate that its Proposal complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name a new apparent successful Proposer; OR
- c. reject all Proposals and cancel the procurement.

**2.7 Acceptance of Contractual Requirements:** Failure of the selected Proposer to execute a contract and deliver required insurance certificates within ten (10) calendar days after notification of an award may result in cancellation of the award. This time period may be extended at the option of County.

**2.8 Public Records:** Proposals are deemed confidential until the “Notice of Intent to Award” letter is issued. This RFP and one copy of each original Proposal received in response to it, together with copies of all documents pertaining to the award of a contract, will be kept and made a part of a file or record which will be open to public inspection. If a Proposal contains any information that is considered a **TRADE SECRET** under ORS 192.345(2), **SUCH INFORMATION MUST BE LISTED ON A SEPARATE SHEET CAPABLE OF SEPARATION FROM THE REMAINING PROPOSAL AND MUST BE CLEARLY MARKED WITH THE FOLLOWING LEGEND:**

**“This information constitutes a trade secret under ORS 192.345(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”**

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance” (ORS 192.345). Therefore, non-disclosure of documents, or any portion of a document submitted as part of a Proposal, may depend upon official or judicial determinations made pursuant to the Public Records Law.

**2.9 Investigation of References:** County reserves the right to investigate all references in addition to those supplied references and investigate past performance of any Proposer with respect to its successful performance of similar services, its compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, its lawful payment of subcontractors and workers, and any other factor relevant to this RFP. County may postpone the award or the execution of the contract after the announcement of the apparent successful Proposer in order to complete its investigation.

**2.10 RFP Proposal Preparation Costs and Other Costs:** Proposer costs of developing the Proposal, cost of attendance at an interview (if requested by County), or any other costs are entirely the responsibility of the Proposer, and will not be reimbursed in any manner by County.

**2.11 Clarification and Clarity:** County reserves the right to seek clarification of each Proposal, or to make an award without further discussion of Proposals received. Therefore, it is important that each Proposal be submitted initially in the most complete, clear, and favorable manner possible.

**2.12 Right to Reject Proposals:** County reserves the right to reject any or all Proposals or to withdraw any item from the award, if such rejection or withdrawal would be in the public interest, as determined by County.



**2.13 Cancellation:** County reserves the right to cancel or postpone this RFP at any time or to award no contract.

**2.14 Proposal Terms:** All Proposals, including any price quotations, will be valid and firm through a period of one hundred and eighty (180) calendar days following the Closing date. County may require an extension of this firm offer period. Proposers will be required to agree to the longer time frame in order to be further considered in the procurement process.

**2.15 Oral Presentations:** At County's sole option, Proposers may be required to give an oral presentation of their Proposals to County, a process which would provide an opportunity for the Proposer to clarify or elaborate on the Proposal but will in no material way change Proposer's original Proposal. If the evaluating committee requests presentations, the Procurement Division will schedule the time and location for said presentation. Any costs of participating in such presentations will be borne solely by Proposer and will not be reimbursed by County. **Note:** Oral presentations are at the discretion of the evaluating committee and may not be conducted; therefore, **written Proposals should be complete.**

**2.16 Usage:** It is the intention of County to utilize the services of the successful Proposer(s) to provide services as outlined in the below Scope of Work.

**2.17 Review for Responsiveness:** Upon receipt of all Proposals, the Procurement Division or designee will determine the responsiveness of all Proposals before submitting them to the evaluation committee. If a Proposal is incomplete or non-responsive in significant part or in whole, it will be rejected and will not be submitted to the evaluation committee. County reserves the right to determine if an inadvertent error is solely clerical or is a minor informality which may be waived, and then to determine if an error is grounds for disqualifying a Proposal. The Proposer's contact person identified on the Proposal will be notified, identifying the reason(s) the Proposal is non-responsive. One copy of the Proposal will be archived and all others discarded.

**2.18 RFP Incorporated into Contract:** This RFP will become part of the Contract between County and the selected contractor(s). The contractor(s) will be bound to perform according to the terms of this RFP, their Proposal(s), and the terms of the Sample Contract.

**2.19 Communication Blackout Period:** Except as called for in this RFP, Proposers may not communicate with members of the Evaluation Committee or other County employees or representatives about the RFP during the procurement process until the apparent successful Proposer is selected, and all protests, if any, have been resolved. Communication in violation of this restriction may result in rejection of a Proposer.

**2.20 Prohibition on Commissions and Subcontractors:** County will contract directly with persons/entities capable of performing the requirements of this RFP. Contractors must be represented directly. Participation by brokers or commissioned agents will not be allowed during the Proposal process. Contractor shall not use subcontractors to perform the Work unless specifically pre-authorized in writing to do so by the County. Contractor represents that any employees assigned to perform the Work, and any authorized subcontractors performing the Work, are fully qualified to perform the tasks assigned to them, and shall perform the Work in a competent and professional manner. Contractor shall not be permitted to add on any fee or charge for subcontractor Work. Contractor shall provide, if requested, any documents relating to subcontractor's qualifications to perform required Work.

**2.21 Ownership of Proposals:** All Proposals in response to this RFP are the sole property of County, and subject to the provisions of ORS 192.410-192.505 (Public Records Act).

**2.22 Clerical Errors in Awards:** County reserves the right to correct inaccurate awards resulting from its clerical errors.

**2.23 Rejection of Qualified Proposals:** Proposals may be rejected in whole or in part if they attempt to limit or modify any of the terms, conditions, or specifications of the RFP or the Sample Contract.

**2.24 Collusion:** By responding, the Proposer states that the Proposal is not made in connection with any competing Proposer submitting a separate response to the RFP, and is in all aspects fair and without collusion or fraud. Proposer also certifies that no officer, agent, elected official, or employee of County has a pecuniary interest in this Proposal.

**2.25 Evaluation Committee:** Proposals will be evaluated by a committee consisting of representatives from County and potentially external representatives. County reserves the right to modify the Evaluation Committee make-up in its sole discretion.

**2.26 Commencement of Work:** The contractor shall commence no work until all insurance requirements have been met, the Protest of Awards deadline has been passed, any protest have been decided, a contract has been fully executed, and a Notice to Proceed has been issued by County.

**2.27 Best and Final Offer:** County may request best and final offers from those Proposers determined by County to be reasonably viable for contract award. However, County reserves the right to award a contract on the basis of initial Proposal received. Therefore, each Proposal should contain the Proposer's best terms from a price and technical standpoint. Following evaluation of the best and final offers, County may select for final contract negotiations/execution the offers that are most advantageous to County, considering cost and the evaluation criteria in this RFP.

**2.28 Nondiscrimination:** The successful Proposer agrees that, in performing the work called for by this RFP and in securing and supplying materials, contractor will not discriminate against any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, sexual orientation, gender identity, veteran status, physical or mental handicap, national origin or ancestry, or any other class protected by applicable law.

## **SECTION 3 SCOPE OF WORK**

### **3.1. INTRODUCTION**

Clackamas County is seeking Proposals from vendors to provide Compliance and Subrecipient Monitoring Consulting Services.

**Please direct all Technical/Specifications or Procurement Process Questions to the indicated representative referenced in the Notice of Request for Proposals and note the communication restriction outlined in Section 2.19.**

### **3.2 BACKGROUND**

The County expends annually approximately \$100 million dollars a year in Federal Financial Assistance Awards (see recent audit reports posted at <https://www.clackamas.us/finance/financearchive.html>) and an anticipated \$15 million dollars in awards to sub-recipients for FY21. As required under 2 CFR 200, Uniform Guidance, the County must provide risk assessments and conduct monitoring of its sub-recipients. The County is seeking a contractor to perform these required services to comply with Uniform Guidance.

### **3.3. SCOPE OF WORK**

Consultant to provide the following services for during the term of the resulting contract:

#### **A. Compliance and Monitoring Services:**

On behalf of Clackamas County, ensure compliance with financial assistance awards and contract provisions as well as applicable Federal and State laws and regulations, by performing the functions required to maintain the County's Monitoring Plan, which includes, but may not be limited to:

- Administers the County's fiscal monitoring of sub-recipients through the use the Financial Assistance Policy and Manual;
- Perform a risk assessment of each sub-recipient using County developed tools, such as the risk assessment;
- Perform ongoing fiscal monitoring based on the risk assessment
- Perform follow-up to fiscal monitoring efforts;
- Assess if the sub-recipient has a continuing capacity to carry out the approved program or project;
- Identify potential problem areas and to assist the sub-recipient in complying with applicable laws and regulations;
- Assist sub-recipients in resolving compliance problems through discussion, negotiation, and the provision of technical assistance and training;
- Provide adequate follow-up measures to ensure that performance and compliance deficiencies are corrected by sub-recipients;
- Ensure that required fiscal records are maintained to demonstrate compliance with applicable regulations and requirements;
- Ensure sub-recipient expenditures of federal funds are properly documented and made in accordance with applicable regulations and requirements;
- Verify sub-recipients have audits, as required under 2 CFR Part 200 Subpart F;

- Consider whether the results of the sub-recipient’s audits, on-site reviews, or other monitoring require adjustments to the sub-recipient agreement;
- If applicable, to review sub-recipient agencies to determine if services are delivered in accordance with contract requirements as to type of services and number of units of service; and
- If applicable, to review records of sub-recipient agencies to determine if systems are in place to properly document the provision of services, client eligibility, and compliance with any other contract requirements.
- Addresses sub-recipient noncompliance and offers recommendations to County management on needed enforcement or resolution actions.
- Consultant determines which sub-recipients require monitoring through the use of County developed tools, such as the risk assessment and financial assistance policy and manual, and by working with management, grant accountants, and various staff.
- Consultant performs remote “site visits” of County federal sub-recipients, a minimum of three annually, and one in person site visit per year, if necessary, as determined by the County’s risk assessments. To include post-visit monitoring report, follow-up up, and clearance letter (if findings identified). Total number of site visits required will be determined by the County’s risk assessment tool.
- Consultant will maintain the county’s current system of records for sub-recipient/Consultant monitoring history to track pass-through grant agreements, on-site and desk reviews, audit reports, and other relevant information.

*FY = fiscal year for Clackamas County is July 1 to June 30.*

**B. Subrecipient Agreement Development Services:**

Consultant’s subrecipient agreement development services to include: department consultations, collaboration with County counsel, template maintenance, collection and review of audits, risk assessments (performed jointly with departments), and closeout letters. These services will be provided on an *ad hoc* basis. Consultant will review subrecipient agreements submitted by County Departments, prior to execution, for accuracy and completeness (i.e. CFDA number, amount, period of availability, appropriate Federal citations/regulations). Fifty-nine (59) Federal agreements or amendments were completed during FY21.

**C. Notice of Funding Opportunity Services (“NOFO”):**

Consultant will provide NOFO services to the County including: consultations to the Department requesting a NOFO, review of NOFO’s, and joint maintenance of County NOFO web page <https://www.clackamas.us/grants> with Public and Governmental Affairs (“PGA”). Seven (7) NOFO’s were published with consultation and review services in FY21.

**D. Emergency Operations Center (“EOC”) Services:**

In the event that the EOC is activated, the Consultant will provide EOC consultations, assist the County’s Financial Accounting and Reporting (“FAR”) team in preparation of related billings, participate in weekly zoom meetings with EOC Command, and provide other grant services as assigned by EOC Command. Provide expert programmatic and policy advice on federal disaster relief programs.

**E. Consultation & Technical Services:**

As needed, Consultant will provide various consultation, training, technical assistance, to the County and its Sub-recipients. This includes providing assistance and oversight to the County to facilitate and ensure appropriate progress on agreed-upon grant deliverables.

**F. Finance Administration Services:**

Consultant will participate in scheduled zoom meetings not otherwise outlined herein on an *ad hoc* basis as requested by Finance Management.

Resolve any requests for information, justification audit findings and eligibility appeals.

Consultant assists with the Single Audit; including preparation of the County’s Schedule of Expenditures of Federal Awards (“SEFA”) as it relates to sub-recipients. Prepares draft responses to any Single Audit Findings.

**G. Performance Measurement/Evaluation/Monitoring Plan:**

The performance of the contract will be measured by the Deputy Director of Finance, authorized on behalf of the County, to evaluate the contractor’s performance against the criteria in the Scope of Services and are identified as:

- The submission of satisfactory Monthly Monitoring Reports is required. Performance measures for this contract shall include Contractor’s timely and successful completion, submission, and performance of any work product being sought and provided through this agreement, consistent with the provisions, goals and objectives of the resulting Contract.

**3.4. TERM OF CONTRACT AND BUDGET:**

The term of the contract shall be for three (3) years with the option for two (2) additional one (1) year renewals thereafter subject to the mutual agreement of the parties.

The estimated maximum budget over the life of the resulting contract is up to \$625,000, including any optional renewals.

**3.5. ATTACHMENTS INCLUDED IN THIS RFP:**

- Appendix 1 – Clackamas County Financial Assistance Management Policy
- Appendix 2 – Clackamas County Financial Assistance Management Manual

**3.6. SAMPLE CONTRACT:**

Submission of a Proposal in response to this RFP indicates Proposer’s willingness to enter into a contract containing substantially the same terms (including insurance requirements) of the sample contract identified below. No action or response to the sample contract is required under this RFP. Any objections to the sample contract terms should be raised in accordance with Paragraphs 2.2 or 2.3 of this RFP, pertaining to requests for clarification or change or protest of the RFP/specifications, and as otherwise provided for in this RFP. This RFP and all supplemental information in response to this RFP will be a binding part of the final contract.

The applicable Sample **Personal Services Contract** for this RFP can be found at <https://www.clackamas.us/finance/terms.html>.

Personal Services Contract (unless checked, item does not apply)

The following paragraphs of the Professional Services Contract will be applicable:

- Article I, Paragraph 5 – Travel and Other Expense is Authorized
- Article II, Paragraph 28 – Confidentiality
- Article II, Paragraph 29 – Criminal Background Check Requirements
- Article II, Paragraph 30 – Key Persons
- Article II, Paragraph 32 – Federal-Contracting Requirements

The following insurance requirements will be applicable:

- Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
- Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
- Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.
- Cyber Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for network security (including data breach), privacy, interruption of business, media liability, and errors and omissions

**SECTION 4  
EVALUATION PROCEDURE**

**4.1** An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals in accordance with the below criteria. The evaluation committee may recommend an award based solely on the written responses or may request Proposal interviews/presentations. Interviews/presentations, if deemed beneficial by the evaluation committee, will consist of the highest scoring Proposers. The invited Proposers will be notified of the time, place, and format of the interview/presentation. Based on the interview/presentation, the evaluation committee may revise their scoring.

Written Proposals must be complete and no additions, deletions, or substitutions will be permitted during the interview/presentation (if any). The evaluation committee will recommend award of a contract to the final County decision maker based on the highest scoring Proposal. The County decision maker reserves the right to accept the recommendation, award to a different Proposer, or reject all Proposals and cancel the RFP.

Proposers are not permitted to directly communicate with any member of the evaluation committee during the evaluation process. All communication will be facilitated through the Procurement representative.

**4.2 EVALUATION CRITERIA**

<b>Category</b>	<b>Points available:</b>
Proposer's General Background and Qualifications	0-30
Scope of Work	0-45
Fees	0-25
<b>Available points</b>	<b>0-100</b>

**4.3** Once a selection has been made, the County will enter into contract negotiations. During negotiation, the County may require any additional information it deems necessary to clarify the approach and understanding of the requested services. Any changes agreed upon during contract negotiations will become part of the final contract. The negotiations will identify a level of work and associated fee that best represents the efforts required. If the County is unable to come to terms with the highest scoring Proposer, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple phases and the County deems it is in its interest to not authorize any particular phase, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer to complete the remaining phases.

**SECTION 5  
PROPOSAL CONTENTS**

**5.1. Vendors must observe submission instructions and be advised as follows:**

**5.1.1.** Complete Proposals must be mailed to the below address or emailed to [Procurement@clackamas.us](mailto:Procurement@clackamas.us). The subject line of the email must identify the RFP title. Proposers are encouraged to contact Procurement to confirm receipt of the Proposal.

**5.1.3.** County reserves the right to solicit additional information or Proposal clarification from the vendors, or any one vendor, should the County deem such information necessary.

**5.1.4.** Proposal may not exceed a total of **30 pages** (single-sided), inclusive of all exhibits, attachments or other information.

**Provide the following information in the order in which it appears below:**

**5.2. Proposer's General Background and Qualifications:**

- Description of the company.
- Credentials/experience of key individuals that would be assigned to this project.
- Description of what distinguishes the firm from other firms performing a similar service.

**5.3. Scope of Work**

- Demonstrated Effectiveness:
  - Describe services your organization has provided in the past three years that demonstrate your organization's capability to administer the services proposed. Include the nature of the services provided, scope of services, budget and the organization (including a contact and phone number) for which the service was provided. Reviewers will look closely at capacity to deliver proposed services, and current/past demonstrated performance (timeliness of monitoring reports, timely/accurate submittal of invoices/close-out contract).
- Describe your experience supporting and providing technical assistance for a Single Audit.
- Describe your experience providing assistance in drafting or reviewing a Notice of Funding Opportunity.
- Describe your experience reviewing or developing sub-recipient grant agreements.
- Describe your ability to support an Emergency Operations Center or high stress environment with grant and funding questions in a real time situation.
- Provide an explanation of any additional tasks to be performed, which are deemed necessary by the proposer for successful project completion; explanation of deviation from and/or deletion of any tasks listed in the Scope of Work.

**5.4. Fees**

Fees should be on a time and material with a not to exceed fee basis. Fees should be sufficiently descriptive to facilitate acceptance of a Proposal. List the not-to-exceed amount you propose for the service. Fee schedules should outline all estimated expenses, hourly rates for all assigned individuals, anticipated travel, other reimbursable expenses.

**5.5. References**

Provide at least three (3) references from clients your firm has served similar to the County in the past three (3) years, including one client that has newly engaged the firm in the past thirty-six (36) months and one (1) long-term client. Provide the name, address, email, and phone number of the references. Please note the required



three references may not be from County staff, but additional references may be supplied. Evaluation Committee members may contact references at their sole discretion.

**5.6. Completed Proposal Certification (see the below form)**

**PROPOSAL CERTIFICATION**  
**RFP #2021-68**

Submitted by: \_\_\_\_\_  
**(Must be entity's full legal name, and State of Formation)**

Each Proposer must read, complete and submit a copy of this Proposal Certification with their Proposal. Failure to do so may result in rejection of the Proposal. By signature on this Proposal Certification, the undersigned certifies that they are authorized to act on behalf of the Proposer and that under penalty of perjury, the undersigned will comply with the following:

**SECTION I. OREGON TAX LAWS:** As required in ORS 279B.110(2)(e), the undersigned hereby certifies that, to the best of the undersigned's knowledge, the Proposer is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means the tax laws of the state or a political subdivision of the state, including ORS 305.620 and ORS chapters 316, 317 and 318. If a contract is executed, this information will be reported to the Internal Revenue Service. Information not matching IRS records could subject Proposer to 24% backup withholding.

**SECTION II. NON-DISCRIMINATION:** That the Proposer has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, gender identity, national origin, or any other protected class. Nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055.

**SECTION III. CONFLICT OF INTEREST:** The undersigned hereby certifies that no elected official, officer, agent or employee of Clackamas County is personally interested, directly or indirectly, in any resulting contract from this RFP, or the compensation to be paid under such contract, and that no representation, statements (oral or in writing), of the County, its elected officials, officers, agents, or employees had induced Proposer to submit this Proposal. In addition, the undersigned hereby certifies that this proposal is made without connection with any person, firm, or corporation submitting a proposal for the same material, and is in all respects fair and without collusion or fraud.

**SECTION IV. COMPLIANCE WITH SOLICITATION:** The undersigned further agrees and certifies that they:

1. Have read, understand and agree to be bound by and comply with all requirements, instructions, specifications, terms and conditions of the RFP (including any attachments); and
2. Are an authorized representative of the Proposer, that the information provided is true and accurate, and that providing incorrect or incomplete information may be cause for rejection of the Proposal or contract termination; and
3. Will furnish the designated item(s) and/or service(s) in accordance with the RFP and Proposal; and
4. Will use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this RFP.

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

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

Oregon Business Registry Number: \_\_\_\_\_ OR CCB # (if applicable): \_\_\_\_\_

Business Designation (check one):

Corporation  Partnership  Sole Proprietorship  Non-Profit  Limited Liability Company

Resident Quoter, as defined in ORS 279A.120

Non-Resident Quote. Resident State: \_\_\_\_\_

**APPENDIX #1**

**CLACKAMAS COUNTY FINANCIAL ASSISTANCE MANAGEMENT POLICY**



<input checked="" type="checkbox"/> Administrative Policy <input type="checkbox"/> Operational Policy
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## Financial Assistance Management Policy

Name of Policy	Financial Assistance Policy	Policy #	FIN-1.300
Policy Owner Name	Elizabeth Comfort	Effective Date	1/1/2021
Policy Owner Position	Finance Director	Approved Date	12/29/2020
Approved By	Gary Schmidt, County Administrator	Last Review Date	N/A
Signature	<i>Gary Schmidt</i>	Next Review Date	1/1/2023

### I. PURPOSE

The purpose of the this policy is to ensure that Clackamas County manages all financial assistance agreements in compliance with the required regulations in order to retain current funding levels for the vital programs and services delivered to our community.

### II. AUTHORITY

This policy is established by the administrative rule-making of the County Administrator and conforms with [2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#).

### III. GENERAL POLICY

It is the policy of Clackamas County that all County Departments and Service Districts are responsible for ensuring proper administration of financial assistance agreements in conformance with the Financial Assistance Management Manual (Manual).

### IV. DEFINITIONS

**Cooperative agreement:** a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302-6305:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal Government or pass-through entity's direct benefit or use;
- (b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

**Direct appropriation:** An appropriation made in a government entity budget bill to a named or otherwise identified recipient entity.

**Financial assistance:** Federal, State, or Local grants, cooperative agreements, donations of surplus property, direct appropriations, food commodities, loans, interest subsidies, and insurance.

**Grant:** A legal instrument of financial assistance in the form of money, or property in lieu of money, by an entity to an eligible recipient. Grants do not require repayment.

A complete glossary of terms and definitions is provided in the Manual.

## **V. POLICY GUIDELINES**

1. The Finance Department is delegated the authority to establish a Financial Assistance Management Manual (“Manual”) designating the procedures and setting forth the standards for administration of all financial assistance agreements. It is the intent of this Policy to authorize the Finance Department to update the Manual from time to time without the necessity to modify this Policy.

The Manual shall at a minimum include:

- a. Overview of Financial Assistance Administration
- b. Federal Financial Assistance Administration Rules and other Grant Administration Policies
- c. Receiving Financial Assistance
- d. Charging of Salaries, Wages, and Benefits – Including Leave
- e. Charging Allocated and Indirect Costs vs the de Minimus Rate
- f. Issuing a Financial Assistance Agreement
- g. Subrecipient Monitoring
- h. Closing a Financial Assistance Agreement
- i. Conflicts of Interest

The Finance Department is responsible for the development of all related forms, implementation, education and training, interpretation, coordination, and monitoring for compliance with this Policy and the Manual.

County departments are responsible for ensuring that staff assigned to managing financial assistance attend the necessary Finance Department trainings, utilize the tools provided, and follow the procedures laid out in the Manual. Departments are also responsible for adhering to the appropriate rules and regulations to ensure compliance.

2. Financial assistance administration shall comply with all applicable federal, state and local laws, rules, regulations, policies and procedures. The Manual is not intended to replace or supersede any federal, state, or local regulations related to financial assistance administration.

3. Department directors shall establish appropriate oversight regarding the administration of financial assistance within their departments in compliance with the requirements set forth in the Manual.

4. Inappropriate uses of financial assistance and reported instances of noncompliance will be investigated and appropriate sanctions applied. Sanctions may include required additional training, and/or imposing disciplinary measures up to and including termination of employment.

## **VI. PROCESS AND PROCEDURES**

Departments should consult with the Financial Accounting and Reporting program within Finance for assistance with questions related to this policy and the Manual. The Manual, along with additional instructional materials, can be found on the Finance intranet page.

## **VII. ACCESS TO POLICY**

**VIII. ADDENDA**

Financial Assistance Management Manual

This policy conforms to the guidance found in the following regulations:

[2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)

###

**APPENDIX #2**

**CLACKAMAS COUNTY FINANCIAL ASSISTANCE MANAGEMENT MANUAL**

# CLACKAMAS COUNTY

## Financial Assistance Management Manual

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**2051 Kaen Rd, Oregon City, OR 97045**



## TABLE OF CONTENTS

<b>I. Introduction .....</b>	<b>I-4</b>
<b>II. About the Office .....</b>	<b>II-5</b>
▪ Description of the Financial Accounting and Reporting (“FAR”) Program .....	II-5
▪ County Policies Cited in this Manual .....	II-5
<b>III. Definitions and Acronyms .....</b>	<b>III-6</b>
A. Glossary of Terms .....	III-6
B. Frequently Used County Acronyms .....	III-20
<b>IV. Federal Grant Administration Rules .....</b>	<b>IV-23</b>
▪ Federal Administrative Requirements .....	IV-23
▪ Lobbying Restrictions .....	IV-24
▪ Debarment and Suspension .....	IV-24
▪ Drug-Free Workplace .....	IV-25
▪ Additional Rules .....	IV-26
<b>V. Financial Assistance Lifecycle .....</b>	<b>V-26</b>
A. Procedures for Financial Assistance Issued to County – <i>County as Recipient</i> .....	V-26
▪ Types and Kinds of Financial Assistance Received by County .....	V-26
▪ Financial Assistance Application Process .....	V-27
▪ Financial Assistance Receipt (Grants) .....	V-28
▪ Federal Oversight in Financial Assistance Administration .....	V-29
B. Procedures for Grants Issued by County – <i>County as Grantor</i> .....	V-30
▪ Intra-Agency Agreements .....	V-30
▪ General Considerations for County Departments in Issuing Subrecipient Grant Agreements .....	V-31
▪ Subrecipient vs. Contractor .....	V-31
▪ Notice of Funding Opportunity (NOFO) .....	V-33
▪ Issuing Grant Awards .....	V-36
C. Fiscal Controls Over Financial Assistance Funds .....	V-41
▪ Requesting Grant Funds – Drawdowns and Requests for Payment .....	V-41
▪ Receiving Grant Funds - Revenue .....	V-43
▪ Spending Grant Funds .....	V-45
D. Managing Financial Assistance .....	V-50
▪ Costs - Overview .....	V-50
▪ Budgets .....	V-53
▪ Budget Adjustments .....	V-53

▪	Adjusting Journal Entries .....	V-54
▪	How to use <i>Special Payments</i> Account Coding.....	V-55
▪	Program Income .....	V-56
▪	Property .....	V-56
▪	Subrecipient Monitoring.....	V-59
▪	Protected Personally Identifiable Information (Protected PII).....	V-61
▪	Cost sharing (Match).....	V-61
▪	Situations Requiring Prior Approval from the Federal Awarding Agency .....	V-62
▪	Reporting .....	V-62
E.	Closeout .....	V-63
▪	Final Phase .....	V-63
▪	Record Retention .....	V-64
<b>VI.</b>	<b>Appendices.....</b>	<b>VI-66</b>
▪	Appendix A: Sample SAM Check.....	VI-66
▪	Appendix B: Financial Assistance Application Lifecycle Form (first page only) .....	VI-67
▪	Appendix C: Chartfield Request Form (Download original here) .....	VI-68
▪	Appendix D: Interfund Billing Form (Obtain form from Finance) .....	VI-69
▪	Appendix E: Departmental Check & Cash Log (Download original here) .....	VI-70
▪	Appendix F: Certificate of Time Attendance (Download original here) .....	VI-71
▪	Appendix G: Subrecipient vs. Contractor Determination Checklist (Download original here) VI-72	
▪	Appendix H: Property Records Checklist .....	VI-73
▪	Appendix I: County Recording Cover Page .....	VI-74
▪	Appendix J: Disclosure of Real or Potential Conflict of Interest Form – Grant Issuance ..VI-75	
▪	Appendix K: Selected Items of Cost .....	VI-76

# I. INTRODUCTION

Clackamas County has adopted this Financial Assistance Management Manual as the primary resource for County staff in the administration and management of their respective grant programs. For federally-funded programs, this manual contains provisions pursuant to [Title 2 of the Code of Federal Regulations \(2 CFR\) Part 200](#) including grants received and issued to outside entities. This manual details procedures for application, receipt, management and closeout of grant awards. The manual also explains relevant federal laws and policies regarding grant administration. While this manual is intended as a primary resource, it is not intended to replace or supersede any federal or state laws related to grant administration.

The Grants Management Manual organizes information in the following manner:

- ✓ Background about the Finance department
- ✓ A glossary of terms related to financial assistance management, including an acronym list
- ✓ Specific rules concerning federal financial assistance administration
- ✓ Information on managing a grant through the lifecycle of the award

Additionally, the Appendices include examples of a number of relevant forms and other documents related to grants management and intended for adoption by departments. All of the forms listed are available for download and completion on the [Finance Department's Intranet Page](#). Just as in this paragraph, there are a number of active hyperlinks throughout this manual intended to assist users with obtaining the information needed to manage County grants. Users are encouraged to explore the hyperlinks to exercise the full capabilities of this manual.

The Financial Accounting and Reporting (FAR) Program in the Department of Finance is dedicated to assisting County departments with the management of all forms of financial assistance. We are available to consult on any grant-related issue and we encourage you to attend any or all of the frequent trainings throughout the year that our department offers related to grant management.

## **II. ABOUT THE OFFICE**

### **▪ DESCRIPTION OF THE FINANCIAL ACCOUNTING AND REPORTING (“FAR”) PROGRAM**

The purpose of the Financial Accounting & Reporting Program (“FAR”) is to provide financial reporting, general ledger, and grants management services to the County and County Departments (“department/s”) so they can have timely and accurate financial reports to make informed decisions. The primary responsibility for compliance with all terms and conditions, regulations and statutes pertaining to an award lie within the department. The department is solely responsible for certification of compliance. FAR only certifies the County’s financial system of record, PeopleSoft, has documented costs corresponding to the report submitted on behalf of the department. In the course of reviewing supporting documentation, FAR may identify costs or documentation that may not be in compliance with the grant. These questioned items are brought to the attention of the department for additional review and for the department to make final determination of compliance.

### **▪ COUNTY POLICIES CITED IN THIS MANUAL**

This manual makes reference to the following official County policies and procedures:

- Travel Reimbursement Policy
- Business Meeting Agenda Submittal Process
- Local Contracting Review Board rules (LCRB)
- Delegated Budget Authority Policy
- Financial Assistance Policy
- Capitalization Policy
- Cash and Deposit Administrative Rule
- How to set up an ACH/EFT
- How to Complete a Deposit Summary Form

### III. DEFINITIONS AND ACRONYMS

#### A. GLOSSARY OF TERMS

Terms in **bold** are defined in this glossary.

Term	Definition
<b>Accounting Basis</b>	The <b>Uniform Guidance</b> allows grantees to report program expenditures and income on either a cash or accrual basis—called the accounting basis—as prescribed by the awarding agency.
<b>Accounting Records</b>	Records which adequately identify the source and application of funds provided for financially-assisted activities.
<b>Accrual Accounting</b>	A method of accounting where an entity’s financial position and operating results are measured by the flow of economic resources. Transactions are recorded in the accounting period in which they occur regardless of when the related cash receipts and disbursements take place (in accordance with generally accepted accounting principles).
<b>Accrued Expenditures</b>	The charges incurred by the grantee during a given period requiring the provision of funds for goods and other tangible property received, services performed by employees, <b>contractors</b> , <b>subrecipients</b> , <b>subcontractors</b> , and other payees; and other amounts becoming owed (by the grantee) under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefits.
<b>Accrued Income</b>	The sum of earnings during a given period from services performed by the <b>grantee</b> and goods & other tangible property delivered to purchases and amounts becoming owed to the grantee for which no current services or performance is required by the grantee.
<b>Actual Conflict of Interest</b>	Any action or any decision or recommendation by a person acting in a capacity as a Public Official, the effect of which would be to increase the private pecuniary benefit or detriment of the person or the person’s Relative or any business with which the person or a Relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (7) of this section.

Term	Definition
<b>Administrative Requirements</b>	Matters common to <b>financial assistance</b> in general, such as financial management, kinds and frequency of reports, and retention of records.
<b>Agreement</b>	A legally-binding document issued as part of a <b>grant</b> relationship between entities. The term is applied to the legally-binding document on all grant <b>awards</b> issued to or issued by the County.
<b>Alfresco Share</b>	A cloud-based software used by the County to share common documents. Finance uses their Alfresco site to disseminate up-to-date, important, financial-related documentation to County departments and to manage County <b>subrecipients</b> .
<b>Allocable Costs</b>	A cost whether direct or indirect is chargeable to specific <b>financial assistance</b> in accordance with the relative benefits received by the funded program. Some key elements to allocability are: consistent treatment, benefit to the grant, necessary to the project, and fair share of common costs. See Section D: <i>Managing Grants</i> – Allocable.
<b>Allowable Costs</b>	Applicable cost principles from the <b>Uniform Guidance</b> , agency program regulations, and the terms of <b>financial assistance</b> and <b>subrecipient agreements</b> must be followed in determining whether a specific item of cost is allowable. See Section D: <i>Managing Grants</i> – Allowable and Unallowable Costs. Selected items of cost and their general allowability under federal awards can be found in <a href="#">Appendix J</a> .
<b>Award</b>	Financial assistance that provides support or stimulation to accomplish a public purpose. Awards include <b>grants</b> and other agreements in the form of money or property in lieu of money, by an entity to an eligible <b>recipient</b> . The term <i>does not include</i> : technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; or, <b>contracts</b> which are required to be entered into and administered under procurement laws and regulations.
<b>Closeout</b>	The process by which an awarding entity determines that all applicable administrative actions and all required work of the <b>award</b> have been completed by the <b>recipient</b> and awarding entity. Closeout includes many actions including final reporting for the award, disposition of property and record retention requirements.

Term	Definition
<b>Commingling</b>	The mixing or blending of funds within a financial accounting system so that expenditures cannot be identified relative to a particular <b>award, subaward</b> , project, or indirect activity. Commingling involving federal funds is prohibited by federal regulation.
<b>Contract</b>	In relation to grant management, a legal instrument by which an entity purchases property or services needed to carry out a project or program under an <b>award</b> ; i.e. a procurement relationship under a <b>grant</b> or <b>subgrant</b> . Required elements of a contract include a) agreement or consent which consists of an offer and acceptance; b) intention to create a legal relationship or an agreement to be bound by the terms of the contract; c) a degree of certainty from both parties as to the terms of the contract; and, d) consideration, i.e. an exchange of services or compensation. Consult with County Counsel to determine if your document contains the required elements of a contract.
<b>Contractor</b>	An entity that receives a <b>contract</b> as opposed to a <b>subrecipient agreement</b> . This term replaces the previously used term <i>vendor</i> in the federal guidance.
<b>Corrective Action</b>	Action taken by the auditee or <b>recipient</b> of an <b>award</b> that: a) corrects identified deficiencies; b) produces recommended improvements; or c) demonstrates that audit or other findings are invalid or do not warrant auditee action.
<b>Cost sharing</b>	Cost sharing or “matching” means the value of third party <b>in-kind contributions</b> and the portion of the costs of a County, state or federally-assisted project or program not borne by the County, state or federal government, respectively. See also “Program Income.”
<b>Direct Appropriation</b>	An appropriation made in a government entity budget bill to a named or otherwise identified recipient entity.
<b>Disallowed Costs</b>	Those charges to an <b>award</b> that the awarding entity (federal, state, County, or other pass-through) determines to be unallowable, in accordance with applicable <b>statutes, regulations</b> , or terms and conditions of the <b>award agreement</b> or terms of the <b>financial assistance</b> .
<b>Discretionary Grants</b>	<b>Grants</b> given by a public agency, according to specific authorizing legislation, to exercise judgment or "discretion," in selecting the <b>award recipient</b> through a competitive grant process.

Term	Definition
<b>Draw Down</b>	The action of requesting and receiving <b>financial assistance</b> funds to cover obligated expenditures under the grant.
<b>Donation</b>	Any item of value given to the County by a donor who expects nothing of significant of value in return, other than recognition and disposition of the gift in accordance with the donor's wishes. Donations are not accompanied by a <b>contract</b> or <b>agreement</b> , do not require deliverables, are generally irrevocable, and do not come with formal fiscal accountability requirements to the donor beyond (when applicable) periodic progress reports and/or summaries of expenditure.
<b>Dun and Bradstreet Universal Numbering System (DUNS)</b>	A system that assigns unique numbers to entities for purposes of identification. See <b>Unique Entity Identifier</b> .
<b>Equipment</b>	Tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. (Threshold is for equipment purchased with federal funds only. Check the County's current capitalization policy for equipment purchased with non-federal grant funds.)
<b>Expenditures</b>	<p>Charges made to the project or program. They may be reported on a cash or accrual basis.</p> <p>For expenditure reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of <b>indirect costs</b> charged, the value of third party <b>in-kind contributions</b> applied and the amount of cash advances and payments made to <b>subrecipients</b>.</p> <p>For expenditure reports prepared on an <b>accrual</b> basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect costs incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, <b>contractors</b>, subrecipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.</p>



Term	Definition
<b>Federal Obligations</b>	A legal commitment to make payment under the federal <b>financial assistance</b> or program. This includes the amounts of all orders placed, all <b>contracts</b> and <b>subawards</b> , goods and services received, and similar transactions during a given period that will require payment by the <b>grantee</b> during the same or a future period.
<b>Financial Assistance</b>	<b>Grants</b> , cooperative agreements, direct appropriations, non-cash contributions or donations of property (including donated surplus property), direct appropriations from government entities, food commodities, and federally-issued loans, loan guarantees, or interest subsidies. <b>Financial assistance</b> <i>does not</i> include amounts received as reimbursement for services rendered to individuals.
<b>Fixed Amount Awards</b>	A type of <b>grant agreement</b> under which the federal awarding agency or <b>pass-through entity</b> provides a specific level of support without regard to actual costs incurred under the federal <b>award</b> . This type of federal award reduces some of the administrative burden and record-keeping requirements for both the non-federal entity and federal awarding agency or pass-through entity. Accountability is based primarily on performance and results.
<b>Funding Opportunity</b>	Announcement of open awards. Funding opportunities typically describe the award including the deadline date, funding amounts, award description, and other pertinent information.
<b>Grant</b>	A legal instrument of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by an entity to an eligible recipient. Grants do not require repayment. See: <b>Award</b> .
<b>Grantee</b>	A <b>recipient</b> or <b>subrecipient</b> of an <b>award</b> .
<b>Financial Assistance Life Cycle</b>	The entire process of <b>financial assistance</b> administration: applying for a financial assistance, receiving a financial assistance, managing a financial assistance, and <b>closeout</b> of financial assistance.

Term	Definition
<b>Improper Payment</b>	Any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under <b>statutory</b> , contractual, administrative or other legally applicable requirements; and any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper. Although an improper payment is generally made erroneously, the <b>recipient</b> or <b>subrecipient</b> is still held accountable.
<b>Indirect Costs</b>	Those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect (also called Facilities and Administrative—F&A) costs. Indirect (F&A) cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.
<b>In-kind Contributions</b>	The value of non-cash contributions (i.e. property or services) that a) benefit a <b>grant</b> -funded project or program and b) are contributed by third parties, without charge, to the County or a County <b>subrecipient</b> under a County grant.
<b>Intra-Agency Agreement (IAA)</b>	As it relates to <b>financial assistance</b> , an agreement between County Departments issued to share in the funding and responsibilities of an externally-funded program. Because they are arrangements between departments within a single entity, IAA's do not meet the definition of a <b>contract</b> .
<b>Inter-Governmental Agreement (IGA)</b>	As it relates to <b>financial assistance</b> , an <b>agreement</b> between the County and another Governmental unit issued to share in the funding and responsibilities of an externally-funded program. IGA's contain all of the elements of a <b>contract</b> and are legally-binding documents.

Term	Definition
<b>Internal Controls</b>	The policies and procedures in place to provide reasonable assurance regarding the achievement of objectives in: effectiveness and efficiency of operations, reliability of reporting for internal and external use, and compliance with applicable laws and regulations.
<b>Local Government</b>	A County, borough, municipality, city, town, township, parish, local public authority (including public housing agencies), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other agency or instrumentality of a multi-, regional, or intra-state or local government.
<b>Management Decision</b>	The evaluation by the federal awarding agency or <b>pass-through entity</b> of the audit findings and corrective action plan and the issuance of a written decision to the auditee as to what <b>corrective action</b> is necessary.
<b>Match</b>	See <b>Cost Sharing</b> .
<b>Materials and Services</b>	Contracts which will provide specific products and services. Typical grant-related Materials and Services contracts include but are not limited to: outfitting patrol cars, provision/installation/repair of equipment or facilities (if not a <b>Public Improvement/Public Works</b> contract), etc.
<b>Modified Total Direct Costs (MTDC)</b>	All direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each <b>subaward</b> (regardless of the period of performance of the subawards under the award). MTDC <u>excludes</u> <b>equipment</b> , capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for <b>indirect costs</b> .
<b>Memorandum of Understanding (MOU)</b>	A written memorialization of a non-binding agreement between two or more parties. An MOU is not a formal <b>contract</b> , is not legally enforceable, and should contain a clause to this effect.
<b>Non-Discretionary Grants</b>	<b>Financial assistance</b> that a federal agency is required by <b>statute</b> to award if the recipient, usually a state, submits an acceptable state plan or application and meets the eligibility and compliance requirements of the statutory and <b>regulatory</b> provisions of the grant program.

<b>Term</b>	<b>Definition</b>
<b>Non-Federal Entity</b>	A state, local government, Indian tribe, institution of higher education, or nonprofit organization that administers a federal <b>award</b> as a recipient or <b>subrecipient</b> .
<b>Obligations</b>	The amounts of orders placed, <b>contracts</b> and <b>financial assistance</b> awarded, services received and similar transactions during a given period that require payment by the <b>recipient</b> during the same or a future period.
<b>On-Call Contracts</b>	Used to provide a pool of qualified <b>Personal/Professional Service</b> or <b>Services contractors</b> for emergent situations, small projects, peer review, etc.
<b>Participant Support Costs</b>	Direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.
<b>Pass-through Entity</b>	A non-federal entity that provides a <b>subaward</b> to a <b>subrecipient</b> to carry out part of a federal program.
<b>Pass-through Funding</b>	Funds issued by a federal agency to a state agency or institution that are then transferred to other state agencies, units of local government, or other eligible groups per the <b>award</b> eligibility terms. The state agency or institution is referred to as the "prime <b>recipient</b> " of the pass-through funds. The secondary recipients are referred to as " <b>subrecipients</b> ." The prime recipient issues the <b>awards</b> as competitive or noncompetitive as dictated by the prime award terms and authorizing legislation.
<b>Period of Performance</b>	The time during which a <b>grantee</b> may incur new <b>obligations</b> to carry out the work authorized under an <b>award</b> . Start and end dates must be included in the period of performance.
<b>Personal Services Contract (PSC)</b>	A contract that calls for specialized skills, knowledge and resources in the application of technical or scientific expertise, or the exercise of artistic or management discretion or judgment. Qualifications, performance history, expertise, knowledge, creativity, and the ability to exercise sound professional judgment are typically the primary considerations in selection of the contractor, with cost being secondary. PSC's are typically issued from grant awards for educational/training consultants, human services and client services providers, software consultants, etc.

Term	Definition
<b>Personally Identifiable Information (PII)</b>	Information that can be used to distinguish or trace a person's identity – either alone or when used with other information linked to one person. Public PII includes information normally available in public sources, such as public websites and telephone books. Such information includes name, address, phone numbers, emails and university credentials.
<b>Potential Conflict of Interest</b>	<p>Any action or any decision or recommendation by a person acting in a capacity as a Public Official, the effect of which could be to increase the private pecuniary benefit or detriment of the person or the person's Relative, or a business with which the person or the person's Relative is associated, unless the pecuniary benefit or detriment arises out of the following:</p> <ul style="list-style-type: none"> <li>• An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.</li> <li>• Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's Relative or business with which the person or the person's Relative is associated, is a member or is engaged.</li> </ul> <p>Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.</p>
<b>Prior Approval</b>	Documentation evidencing consent from an awarding agency prior to incurring a specific cost on a <b>grant</b> .
<b>Professional Services Contract</b>	Contracts for services performed as an independent contractor in a professional capacity. Common professional service contracts awarded with grant funds may include: accountants, attorneys, architectural or land use planning consultant, physician or dentist, registered professional engineers, appraiser or surveyor, software developer, etc.

Term	Definition
<b>Program Income</b>	Gross income earned by a <b>grantee</b> or <b>subgrantee</b> that is directly generated by a supported activity or earned as a result of the federal <b>award</b> during the <b>period of performance</b> . Program income includes but is not limited to income from fees for services performed, the use or rental or real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal award funds. Program income is often included in a grant award as a “ <b>cost sharing</b> ” or “ <b>match</b> ” requirement.
<b>Programmatic Requirements</b>	Matters relevant on a program-by-program or <b>grant-by-grant</b> basis, such as kinds of activities that can be supported by grants under a particular program.
<b>Protected Personally Identifiable Information (Protected PII)</b>	A person’s first name or first initial and last name combined with one or more types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother’s maiden name, and criminal, medical and financial records, educational transcripts. This does not include <b>PII</b> that is required by law to be disclosed.
<b>Public Improvement/Public Works Contract</b>	A contract used to procure construction services. Please consult with the Procurement Division on distinguishing Public Improvement and Public Works contracts.
<b>Public Official</b>	Elected or appointed officers, public employees as well as agents and volunteers, compensated or not, that serve the County.
<b>Questioned Costs</b>	In an audit, questioned costs mean those costs questioned by an auditor because of an audit finding a) which resulted from a violation or possible violation of a <b>statute, regulation</b> , or the terms and conditions of a federal <b>award</b> , including for funds used to match (see: <b>cost sharing</b> ) federal funds; b) where the costs, at the time of the audit, are not supported by adequate documentation; or c) where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.
<b>Real Property</b>	Land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and <b>equipment</b> .

Term	Definition
<b>Reasonable Costs</b>	A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. See Section D: <i>Managing Grants</i> – Reasonable and Necessary.
<b>Recipient</b>	Entities awarded <b>financial assistance</b> and held accountable for the use of the funds provided. The recipient is the entire legal entity even if only a particular component of the entity is designated in the <b>award</b> document. Synonym: grantee.
<b>Regulations/Regulatory</b>	Rules or relating to rules issued by agencies acting under <b>statutory</b> authority.
<b>Relative</b>	<p>Any of the following:</p> <ul style="list-style-type: none"> <li>• The spouse, domestic partner, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the <b>Public Official</b>;</li> <li>• The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse or domestic partner of the <b>Public Official</b>;</li> <li>• Any individual for whom the Public Official has a legal support obligation; or Any individual for whom the <b>Public Official</b> provides benefits arising from the <b>Public Official</b>'s public employment or from whom the <b>Public Official</b> receives benefits arising from that individual's employment</li> </ul>
<b>Risk Assessment</b>	A tool used by the County to evaluate the risk of potential <b>subrecipients</b> and to assign monitoring levels to <b>subrecipients</b> awarded <b>grant</b> funds. Risk assessments are "living documents" in that they should be updated throughout the <b>award</b> period as performance is evaluate or new events or incidents occur. County risk assessments will evaluate potential subrecipients for financial stability, the quality of management systems and the ability to meet management standards. Risk assessments will also take into account the history of subrecipient performance, findings from subrecipient audits, and the ability of the subrecipient to implement <b>statutory, regulatory</b> , or other requirements necessary to the performance of the award.

Term	Definition
<b>SAM Check</b>	The documentation obtained when performing a suspension, disbarment and exclusion check on a potential <b>grantee</b> using the online System for Award Management, located at <a href="http://www.sam.gov">www.sam.gov</a> . This is a mandatory check when passing through federal funds to <b>subrecipients</b> and is often required by the state for the <b>subawarding</b> of state funds. A sample SAM Check, downloaded from <a href="http://www.sam.gov">www.sam.gov</a> , is provided in <a href="#">Appendix A</a> .
<b>Selected Items of Cost</b>	Itemized lists of allowable costs contained in Subpart E of the <b>Uniform Guidance</b> .
<b>Services Contract</b>	A contract to supply labor that is of a type that can generally be done by any competent worker, e.g. janitorial, security guard, landscape maintenance service contracts, small equipment repair (e.g. copier), etc.
<b>Simplified Acquisition Threshold (SAT)</b>	In federal procurement law, the dollar amount below which a non-federal entity may purchase property or services using small purchase methods. Non-federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the SAT. The SAT is set, as of the date of the issuance of this manual, at \$150,000, but is periodically adjusted for inflation.
<b>Statute/Statutory</b>	Laws or relating to laws issued by legislatures.
<b>Subaward</b>	An <b>award</b> provided by a <b>pass-through entity</b> to a <b>subrecipient</b> for the subrecipient to carry out part of an award received by the pass-through entity. It does not include payments to a <b>contractor</b> or <b>subcontractor</b> , or payments to an individual that is a beneficiary of a funded program. County subawards are issued as <b>subrecipient agreements</b> .
<b>Subcontractor</b>	An entity that receives funding issued under a <b>contract</b> . See <b>contractor</b> .
<b>Subgrant</b>	See <b>subaward</b> .
<b>Subgrantee</b>	See <b>subrecipient</b> .
<b>Subrecipient</b>	The legal entity to which a <b>subaward</b> is made. A subrecipient is accountable to the <b>pass-through entity</b> (or entities) and the federal agency (if applicable) for the use of the funds provided. The term does not include an individual that is a beneficiary of such a program. The term may include foreign or international organizations (such as agencies of the United Nations) at the discretion of a federal awarding agency. Synonym: <b>subgrantee</b> .



Term	Definition
<b>Subrecipient Agreement</b>	The legal mechanism by which <b>subawards</b> are made to <b>subrecipients</b> . Subrecipient agreements cannot be issued by a <b>contractor</b> .
<b>Supplanting</b>	The act of replacing state, local or other funds designated for a specific purpose with federal funds. Prohibited by federal law on most federal funding.
<b>Supplies</b>	All tangible personal property other than <b>equipment</b> . Computer equipment is considered a supply item if the cost is less than the capitalization threshold.
<b>Suspension</b>	<p>(1) Temporary withdrawal of the authority to obligate <b>financial assistance</b> funds pending corrective action by the recipient or subrecipient or a decision to terminate the financial assistance.</p> <p>(2) An action taken by a suspending official in accordance with agency <b>regulations</b> implementing E.O. 12549 to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.</p> <p>(3) An action by a federal awarding agency that temporarily withdraws federal sponsorship under an <b>award</b>, pending <b>corrective action</b> by the recipient or pending a decision to terminate the award by the federal awarding agency.</p>
<b>System for Award Management (SAM)</b>	A federal online portal located at <a href="http://www.sam.gov">www.sam.gov</a> that combines several prior federal procurement and financial assistance systems such as the Catalog of Federal Domestic Assistance (CFDA), Central Contractor Registration (CCR), Federal Agency Registration (Fed-reg), Online Representations and Certifications Application (ORCA) and Excluded Parties List System (EPLS) among others, for the purposes of registering and qualifying non-federal entities who seek federal awards. See <b>SAM Check</b> .

Term	Definition
<b>Termination</b>	<p>Permanent withdrawal of the authority to obligate previously-awarded <b>financial assistance</b> funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the <b>recipient</b> or <b>subrecipient</b>. Termination does not include:</p> <ol style="list-style-type: none"> <li>(1) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period;</li> <li>(2) Withdrawal of the unobligated balance as part of the expiration of the grant;</li> <li>(3) Refusal to extend a grant or award additional funds, to make a competing or noncompeting continuation, renewal, extension, or supplemental <b>award</b>; or</li> <li>(4) Voiding of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.</li> </ol>
<b>Tribal Government</b>	<p>The governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.</p>
<b>Unique Entity Identifier</b>	<p>A number established and assigned to all non-federal entities that uniquely identifies the entities in all federal systems and to all federal agencies, currently equivalent to the DUNS number. A non-federal entity is required to have the unique entity identifier in order to apply for, receive, and report on a federal <b>award</b>, and to register in the <b>System for Award Management (SAM)</b>. See <b>Dun and Bradstreet Universal Numbering System (DUNS)</b>.</p>
<b>Unliquidated Obligations</b>	<p>For reports prepared on a cash basis, unliquidated obligations represent the amount of obligations incurred by the grantee that has not been paid. For reports prepared on an accrued expenditure basis, this represents the amount of obligations incurred by the grantee for which an outlay has not been recorded.</p>
<b>Unliquidated Balance</b>	<p>That portion of funds authorized by the awarding agency that has not been obligated by the <b>grantee</b>; determined by deducting the cumulative obligations from the cumulative funds authorized.</p>
<b>Vendor</b>	<p>See <b>Contractor</b>.</p>

## B. FREQUENTLY USED COUNTY ACRONYMS

<b>AAAAA</b>	American Association Against Acronym Abuse
<b>ACP</b>	Admin Cost Pool
<b>BCC</b>	Board of County Commissioners
<b>BIP</b>	Batterer Intervention Program
<b>BLM</b>	Bureau of Land Management
<b>CAP</b>	Cost Allocation Plan
<b>CAP</b>	Corrective Action Plan
<b>CCDAG</b>	Clackamas County Development Agency
<b>CCR</b>	Central Contractor Registry
<b>CD</b>	Community Development
<b>CDBG</b>	Community Development Block Grant
<b>CDRC</b>	Child Development and Rehabilitation Center
<b>CFDA</b>	Catalogue of Federal Domestic Assistance
<b>CFR</b>	Code of Federal Regulations
<b>CMHP</b>	Community Mental Health Program
<b>COPS</b>	Community Oriented Policing Services
<b>CS</b>	Community Solutions
<b>CWS</b>	Clackamas Women's Services
<b>CY</b>	Current Year
<b>CY</b>	Calendar Year
<b>CYE</b>	Calendar Year End
<b>CYF</b>	Children Youth and Families
<b>DHS</b>	Department of Homeland Security
<b>DHS</b>	Oregon Department of Human Services
<b>DOE</b>	Department Of Energy
<b>DOEdu</b>	Department Of Education
<b>DOJ</b>	Department Of Justice
<b>DOL</b>	Department Of Labor
<b>DTD</b>	Department of Transportation and Development
<b>EFT</b>	Electronic Funds Transfer
<b>ELED</b>	Enhanced Law Enforcement District
<b>EM</b>	Emergency Management
<b>EXTSD</b>	Clackamas County Extension & 4H Service District
<b>FB</b>	Fund Balance
<b>FEIN</b>	Federal Employers Identification Number
<b>FEMA</b>	Federal Emergency Management Agency
<b>FFA</b>	Federal Financial Assistance
<b>FFATA</b>	Federal Funding Accountability and Transparency Act
<b>FFY</b>	Federal Fiscal Year
<b>FHWA</b>	Federal Highway Administration
<b>FIFO</b>	First In First Out
<b>FR</b>	Federal Register

<b>FFR</b>	Federal Financial Report
<b>FTE</b>	Full-Time Equivalent
<b>FY</b>	Fiscal Year
<b>FYE</b>	Fiscal Year End
<b>GAAFR</b>	Governmental Accounting, Auditing and Financial Reporting
<b>GAAP</b>	Generally Accepted Accounting Principles
<b>GAGAS</b>	Generally Accepted Government Auditing Standards
<b>GAO</b>	Government Accountability Office
<b>GAS</b>	Grant Activity Schedule
<b>GAS</b>	Governmental Auditing Standards
<b>GASB</b>	Governmental Accounting Standards Board
<b>GPO</b>	Government Printing Office
<b>GSA</b>	General Services Administration
<b>GSF</b>	Grant Survey Form
<b>HACC</b>	Housing Authority of Clackamas County
<b>HHS</b>	Health and Human Services
<b>HUD</b>	Housing and Urban Development
<b>ICRA</b>	Indirect Cost Rate Agreement
<b>IFP</b>	Invitation For Proposal
<b>IAA</b>	Intra-Agency Agreement
<b>IGA</b>	Inter-Governmental Agreement
<b>ITA</b>	Individual Training Account
<b>JAG</b>	Juvenile Assistance Grants
<b>JTPA</b>	Job Training Partnership Act
<b>LCRB</b>	Local Contracting Review Board
<b>LIBSD</b>	Library District of Clackamas County
<b>LIHEAP</b>	Low Income Home Energy Assistance Program
<b>LIFO</b>	Last In First Out
<b>LLEBG</b>	Local Law Enforcement Block Grant
<b>LOC</b>	Letter of Credit
<b>MDT</b>	Multi-Disciplinary Team
<b>MHBG</b>	Mental Health Block Grant
<b>MOU</b>	Memorandum Of Understanding
<b>MTDC</b>	Modified Total Direct Costs
<b>NCPRD</b>	North Clackamas Parks and Recreation District
<b>NFA</b>	Notice of Funds Availability
<b>NOA</b>	Notice Of Allocation
<b>NOO</b>	Notice Of Obligation
<b>OAR</b>	Oregon Administrative Rule
<b>OC</b>	Office of Comptroller
<b>OIG</b>	Office of the Inspector General
<b>OJP</b>	Office of Justice Programs
<b>OMB</b>	Office of Management and Budget
<b>ORS</b>	Oregon Revised Statutes

<b>PL or Pub.L</b>	Public Law
<b>PMS</b>	Payment Management System
<b>POC</b>	Point Of Contact
<b>PP</b>	Prior Period
<b>P/R</b>	Payroll
<b>PS</b>	PeopleSoft
<b>PSC</b>	Personal Services Contract
<b>PSHR</b>	PeopleSoft Human Resources
<b>PY</b>	Prior Year
<b>PY</b>	Program Year
<b>RFC</b>	Request For Cash
<b>RFF</b>	Request For Funds
<b>RFI</b>	Request For Information
<b>RFP</b>	Request For Proposal
<b>RFQ</b>	Request For Qualifications
<b>RSA</b>	Resource Sharing Agreement
<b>RSVP</b>	Retired Senior Volunteer Program
<b>SAM</b>	System for Award Management
<b>SAMHSA</b>	Substance Abuse and Mental Health Services Administration
<b>SCP</b>	Senior Companion Program
<b>SD5</b>	Service District 5
<b>SEFA</b>	Schedule of Expenditures of Federal Awards
<b>SHIBA</b>	Senior Health Insurance Benefits Assistance
<b>SHOW</b>	state Home Oil Weatherization Program
<b>SLA</b>	Service Level Agreement
<b>TAG</b>	Technical Assistance Guide
<b>TANF</b>	Temporary Assistance to Needy Families
<b>TEGL</b>	Training and Employment Guidance Letter
<b>TEIN</b>	Training and Employment Information Notices
<b>UG</b>	Uniform Guidance
<b>USC</b>	United States Code
<b>USDA</b>	United State Department of Agriculture
<b>VAWA</b>	Violence Against Women Act
<b>VOCA</b>	Victims of Crime Act
<b>WES</b>	Water Environmental Services
<b>WIA</b>	Workforce Investment Act
<b>WX</b>	Weatherization

## IV. FEDERAL GRANT ADMINISTRATION RULES

(For the purposes of this manual, a “federal grant” generally includes all sources of federal financial assistance, including those not identified by the funding agency as a “grant.”)

Federal grants come with their own specific sets of laws and rules governing grant administration, issued by the Office of Management and Budget (OMB) and by program-specific rules issued by federal awarding agencies. Many of these rules, though not all, make their way into the management of an entity’s non-federal grants as well, in the form of best practices. In other instances, the rules get passed down to subrecipients of federal awards through “pass-through” entities. This section explains the basic rules governing federal grants.

The federal government provides rules for how all grantees must receive, spend, track and report on federal funds. These rules are located in [2 CFR Chapter II, Part 200](#) titled the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, often shortened to simply the “Uniform Guidance.”

### ▪ FEDERAL ADMINISTRATIVE REQUIREMENTS

Federal administrative requirements for grant management can be found in 2 CFR Part 200, accessible on the [U.S. Government Publishing Office’s website](#). This guidance applies to all non-federal entities receiving federal grant awards, including pass-through awards, and without regard to entity type. (Some federal agencies have legal exceptions to 2 CFR Part 200. A list of those agencies and exceptions can be found [here](#).) The federal government groups the administrative requirements into subparts that address the pre-award and post-award administration phases, as outlined below. Check your grant agreement for references to other sections of the federal code that may apply to your grant award but are not covered in this manual.

The major sections of the Uniform Guidance are as follows:

Acronyms and Definitions: [Subpart A](#) provides a list of acronyms and a helpful glossary of common federal award terminology.

General Provisions [Subpart B](#) discusses which federal requirements apply to which federal awards and the Uniform Guidance applicability dates.

Pre-award Requirements: [Subpart C](#) discusses grant eligibility, applying for federal assistance, required elements in federal award agreements and subrecipient agreements, fixed awards, and debarment/suspension.

Post-award Requirements: [Subpart D](#) discusses program management, payments, program income, budgeting, costs, cost sharing (match), and

non-federal audits—in general, the monitoring responsibilities of pass-through entities. The subpart also discusses property and procurement guidelines, reporting and records retention, termination and enforcement, and closeout.

Cost Principles:

[Subpart E](#) discusses cost principles, which govern how recipients of federal grants may spend federal grant funding. The section outlines what constitutes allowable, reasonable, and allocable costs to federal grants, which costs require pre-approval, and the difference between direct and indirect costs. Many specific kinds and types of costs are discussed. Selected items of cost as discussed in this section of the Uniform Guidance are provided for reference in [Appendix J](#).

Audit Requirements:

[Subpart F](#) discusses the kinds and frequency of audits required of federal awardees; auditee, auditor and federal agency responsibilities; and how audit findings are to be resolved. Awardees expending more than \$750,000 in federal money in a given year must have a Single Audit.

#### ▪ **LOBBYING RESTRICTIONS**

Lobbying restrictions can be found in [Section 200.450](#) of the federal administrative requirements. Generally, federal grantees and subrecipients are prohibited from using federal funds to influence federal employees or members of Congress and their staff. If a federal grantee or subrecipient engages in lobbying activities, they must submit a form SF-LLL, Disclosure of Lobbying Activities, with their grant application. [Exhibit C](#) of the County's subrecipient boilerplate agreement is a required element of subrecipient agreements and was developed in accordance with this section. The State of Oregon requires quarterly reporting on lobbying activities which is prepared by the County's Department of Public Government Affairs.

#### ▪ **DEBARMENT AND SUSPENSION**

Debarment and suspension preventing federal grantees and subgrantees from receiving federal grant awards are governed by [2 CFR 180](#), *OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)*. Debarment and suspension can occur if federal grantees use federal funds wastefully or fraudulently.

Prior to issuing a contract or award, federal agencies and grantees are required to search the [System for Award Management \(SAM\)](#) for exclusion records of an entity, whether actively or previously excluded. All potential subrecipients must be registered with the SAM system prior to receiving federal awards. Language covering SAM responsibilities for subrecipients will be included in subrecipient agreements. SAM checks must be completed for each new federal

subrecipient agreement or every two years for multi-year or amended federal subrecipient agreements.

The following resources can be provided to potential subrecipients to assist them in registering with SAM:

[SAM: Registering New Entities in SAM for Grants](#)

It is important to note that State of Oregon contracts funded with only state money will often include provisions on debarment and suspension exclusion, citing federal regulations; even though this is not a federal requirement, the state has adopted the SAM check as a best practice and has included the check as a requirement in many of its grants.

After completing a SAM check using the SAM system, download the SAM check in PDF form or print using the provided buttons (see Figure 1, below). Keep this documentation with the entity's grant or contractor file for audit purposes.

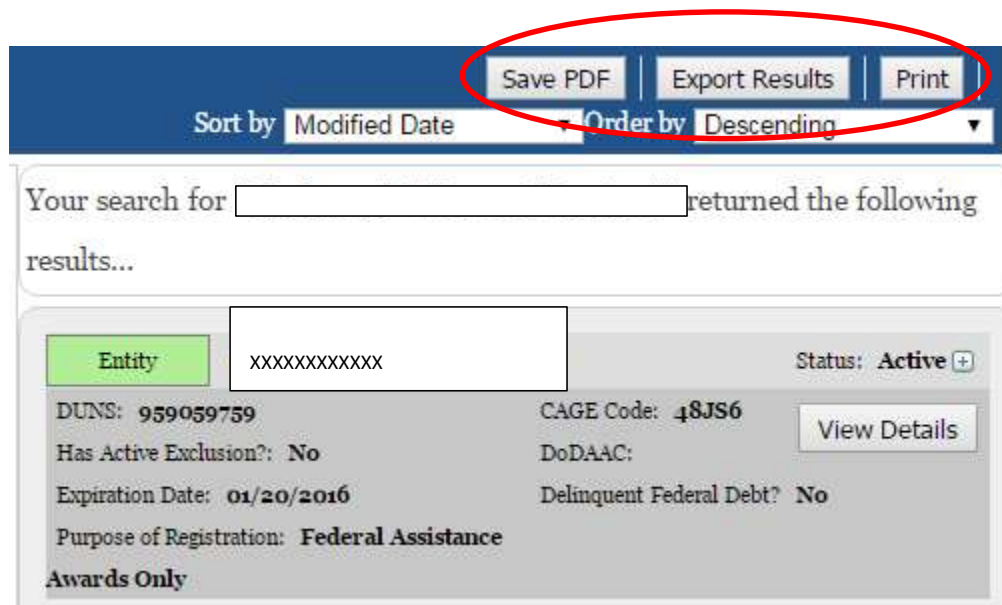


Figure 1 "Total Records" screen for entity searched, [www.sam.gov](http://www.sam.gov).

Figure 1 is an example of the "Total Records" screen; please see [Appendix A](#) of this manual for a sample of a PDF-formatted SAM check. Note: the date at the bottom of the completed check in the appendix is important for audit purposes, since SAM checks must be performed prior to the issuance of the subrecipient agreement.

▪ **DRUG-FREE WORKPLACE**

[2 CFR 182](#), *Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)* requires federal grantees and subgrantees to agree to maintain a drug-free workplace.



## ▪ **ADDITIONAL RULES**

Agency-specific rules for grant administration can be found under the agency’s CFR title. To find CFR titles for agency-specific grant administration rules, look in the grant administration manual accompanying the grant award (if one is available) or search the CFR online at the [U.S. Government Publishing Office website](https://www.govinfo.gov/).

The most important source of information related to your grant can be found in the terms and conditions of your grant agreement. Federal agencies and pass-through organizations (such as the State of Oregon) are required to provide recipients with basic elements of federal awards, including a CFDA number. However, even if a grant award agreement lists a CFDA number, unless the County has been designated a subrecipient on the award or the award text states explicitly the award is for “federal financial assistance,” the funds are not federal funds to the County. By visiting [beta.sam.gov](https://beta.sam.gov), you can look up the page for your CFDA(s) and find award information on agency-specific laws and statutes, fund uses and restrictions, and the applicability or exclusion of general federal regulations.

Note: even if a program is excluded from a federal regulation as listed on the CFDA page, if your agreement with the pass-through agency requires compliance with the regulation, the agreement holds precedence.

## **V. FINANCIAL ASSISTANCE LIFECYCLE**

The FAR Program has created a visualization tool called [Managing Financial Assistance – Process Flowcharts](#) to help assist County departments manage their grants. County departments should download this document and consult the relevant process whenever they need to manage an aspect of their grant requiring the involvement of another County department or outside agency. The flowcharts are routinely updated with the most current links, processes and forms, so downloading the most current version is critical to successfully navigating County grant lifecycle processes. This document will be referenced and linked throughout Section V for convenience.

### **A. PROCEDURES FOR FINANCIAL ASSISTANCE ISSUED TO COUNTY – COUNTY AS RECIPIENT**

#### ▪ **TYPES AND KINDS OF FINANCIAL ASSISTANCE RECEIVED BY COUNTY**

The County may apply for and receive grant funds directly from an external funder such as a federal or state agency, a foundation or non-profit (i.e. local funding), or, in the case of federal funds, may be a subrecipient of funds that “pass-through” a state agency or other municipality, or non-profit. All grant awards received by the County involving federal funds are subject to the Uniform Guidance ([2 CFR 200](#)) in addition to agency-specific regulations and to the policies and procedures in this manual.

The County may also receive financial assistance through direct appropriation and without an application. As such, direct appropriations are not subject to the financial assistance application process in the next section.

#### ■ FINANCIAL ASSISTANCE APPLICATION PROCESS

In collaboration with a number of County departments, Finance has developed a Financial Assistance Application Lifecycle Form, found in [Appendix B](#). This form serves as a tool for departments to organize the financial assistance application process and to obtain the required approvals from the Board of County Commissioners or the County Administrator. The form is designed to be used from application conception to County approval. (Exception: because of the nature of the grants, disaster recovery grants—usually from the Federal Emergency Management Agency—are not subject to the Financial Assistance Application Lifecycle process.)

#### ***Indirect Cost Recovery***

Federal agencies and non-federal pass-through entities are required by the Uniform Guidance to provide indirect cost recovery to entities receiving federal financial assistance (except where precluded by statute). Three options are provided in the Uniform Guidance:

Option 1: allows grantees to negotiate directly with their “cognizant [federal] agency for indirect costs” to obtain a negotiated rate. (The County does not currently have such a rate.)

Option 2: use the *de minimis* rate, which allows grantees who do not have the negotiated rate from Option 1 to claim up to 10% of modified total direct costs (“MTDC;” see glossary for definition) as indirect costs in their budget. (The County does not currently have such a rate.)

If option 1 or 2 are chosen, the rate must be used on all federal grants that the County receives. **The County has not chosen to use either option, so these must not be chosen on your grant application.**

Option 3: submit the County’s cost allocation plan to the funding agency for review. Few agencies allow for this option, as it is labor intensive.

Many funding agencies, avoiding these three options, simply choose to provide a set rate (sometimes applicable to a certain base) to their applicants on a given award. In such circumstances, departments are encouraged to obtain whatever indirect cost recovery is available, as long as options 1-3 are not exercised, in order to reduce the burden on County general fund dollars.

#### ***Authorized Representative***

All financial assistance applications require the signature of an authorized representative who has the authority to bind the County to the terms and conditions of the award. After sections I-III of the Financial Assistance Application Lifecycle Form have been completed, signature approval is required from the Division Director (or designee, if applicable), and the Department Director.

If federal funds are involved, signature approval is required from the Finance Director. The form is then forwarded by the originating department to the County Administrator's office or the Board of County Commissioners for approval or denial. Consult the [BCC/Admin intranet page, Business Meeting Agenda](#) for the most current guidelines on getting approval for financial assistance/grant applications.

#### ▪ FINANCIAL ASSISTANCE RECEIPT

Download the [Managing Financial Assistance – Process Flowcharts](#) and consult the “Financial Assistance Receipt” tab to assist you with navigating the processes related to receiving your award.

#### ***Signing the Agreement***

All financial assistance awards above or expected to be above \$150,000 must be reviewed by Counsel and approved by the Board of County Commissioners (BCC) as a consent item on its weekly agenda. Grant awards below or expected to be below \$150,000 may be signed by the County Administrator. Upon approval of an award, the BCC chair or designee (or County Administrator, if below \$150,000) will need to sign the award document, and then the department returns the agreement to the awarding entity in order to receive the grant funds. [Federal awarding agencies will normally not release any grant funds without receiving the grant award document back with an authorized signature.]

#### ***Financial Assistance Set-Up***

Once you have received your award agreement, please complete a Chartfield Request Form ([Appendix C](#)). Creating a unique chartfield string prevents the commingling of financial assistance funds by creating a unique program (or project) number in the County's accounting system (PeopleSoft). This is a critical step allowing Finance to track all externally-funded awards issued to the County for auditing, administrative and performance purposes. The Chartfield Request Form should be completed and sent, along with a copy of the grant agreement and the Financial Assistance Application Lifecycle Form (with approvals), to Finance: FinanceGrants@clackamas.us. The completion of a Chartfield Request Form is also required when the County receives direct appropriations.

#### ***FEMA events***

The FAR Program will be responsible for creating a program number during a declared FEMA event. All County departments providing services during the FEMA event must use this program number for their FEMA-eligible charges; departments may not post FEMA-related charges to any other program number than assigned by the FAR Program.

TIP: The “Descr” field is of critical importance when posting disaster-related expenses in PeopleSoft. This field should not include references to the name of the disaster, e.g. “wildfires” or “COVID,” since the assigned program code for the disaster already delineates the charge by its

affiliated disaster. Use the “Descr” field to briefly describe the thing purchased so FAR accountants can correctly bill for the disaster against claim line items required by the disaster funding agency.

### ***County Budget Setup***

Oregon local budget law necessitates financial assistance funds be appropriated through the County budget process. This requires completion of a [Budget Change Request Form](#), which should be forwarded to the Budget Office in Finance. Complete the form around the time you are requesting the setup of your financial assistance.

### ***County Recording***

The last required step in receiving your financial assistance award (excluding direct appropriations) is to submit your executed agreement to County Recording. Use your department procedures for submitting items to County Recording (in the County Clerk’s office) to accomplish this task. Submissions must be in hard copy, and a recording cover page must be attached. Recording cover pages need not be standardized, but the elements of the sample provided in [Attachment L](#) should be present. The hardcopy does not need to be the original.

### ***Failed Financial Assistance Applications***

If your application for financial assistance is unsuccessful, County record retention policies still apply. Failed applications must be retained by the department for three years.

#### **▪ FEDERAL OVERSIGHT IN FINANCIAL ASSISTANCE ADMINISTRATION**

Federal awarding agencies use two types of site visits to monitor financial assistance agreement compliance by federal award recipients: monitoring and audits.

### ***Monitoring***

A monitoring site visit ensures compliance with the terms and conditions of the financial assistance by reviewing financial, personnel, procurement, property and program activities. Monitoring activities are discussed throughout the *Performance and Financial Monitoring and Reporting* section of 2 CFR Part 200 ([Sections 200.327 thru 200.342](#)). At the conclusion of a monitoring site visit, the awarding agency then prepares an in-depth report documenting the visit. If the awarding agency discovered compliance issues during the site visit, he or she will reach out to the County in an attempt to resolve them. This list of findings may also include a list of unallowed costs or costs requiring further justification.

### ***Audits***

Audits differ from monitoring visits in that they provide a comprehensive review of financial records and are conducted by independent entities/individuals. Like visits from awarding agencies, auditors investigate financial records to ensure compliance with the terms and

conditions of the financial assistance award. In the event they discover a compliance issue, they work with the grantee to resolve the issue. Audits are governed by [2 CFR Part 200 Subpart F](#) in the Uniform Guidance. Clackamas County is subject to the provisions under Subpart F and, as such, annually undergoes a Single Audit. The results of the audit are published on Finance’s [website](#). As required by regulation, the Deputy Finance Director reports the County’s audit to federal authorities via the Federal Audit Clearinghouse (FAC).

## **B. PROCEDURES FOR GRANTS ISSUED BY COUNTY – COUNTY AS GRANTOR**

The County may issue grants from various sources to nonprofits, other government entities, or other organizations. In this capacity, the County is considered a grantor.

Download the [Managing Financial Assistance – Process Flowcharts](#) and consult the relevant “Grant Issuance” tabs to assist you with navigating the processes related to issuing grant awards to outside organizations.

### **▪ INTRA-AGENCY AGREEMENTS**

Download the [Managing Financial Assistance – Process Flowcharts](#) and consult the “Grants & Intra-Agency Agreements” tab to assist you with navigating the processes related to issuing intra-agency agreements to other County departments. Intra-Agency Agreement templates approved by County Counsel for use by all departments can be obtained from [Finance’s Alfresco Share site](#).

An Intra-Agency Agreement (IAA) is used when one County department issues some or all of an award to another County department. Though not considered a grant, IAA’s may be issued and the template provided by Finance may be used when departments seek to share County general funds on a joint program.

When using IAA’s (Intra-Agency Agreements), issuing (also called “originating”) departments are responsible for reimbursing receiving (also called “secondary”) departments for actual expenditures. Receiving departments should bill issuing departments using an Electronic County Invoice Form. Receiving departments should also provide supporting documentation with their Electronic County Invoice Form so the issuing department can review and approve allowed costs against the original grant. Once completed the Electronic County Invoice Form and supporting documentation should be sent to the issuing department and Accounts Receivable for review and approval. Once issuing department has completed and approved, the forms are sent to the Department’s assigned Accountant in Finance and to Accounts Receivable. A reference-only Electronic County Invoice Form can be found in [Appendix D](#). (The form can be obtained from the [Accounts Receivable Intranet page](#).)

Note: The Treasurer’s Office should be consulted as soon as possible on all IAA’s involving the County and one or more of its component units.

## ▪ GENERAL CONSIDERATIONS FOR COUNTY DEPARTMENTS IN ISSUING SUBRECIPIENT GRANT AGREEMENTS

If federal or state funds are involved in an award issued by the County, the County is considered a *pass-through* entity in relation to those funds. A pass-through entity retains the programmatic and fiscal responsibility accompanying the original award, but “passes-through” at least a portion of the original funds to another entity to carry out some or all of the intended program functions of the financial assistance. The receiving entity is called a *subrecipient*, and the program, fiscal and legal requirements of the original grant pass-through to the subrecipient with the funds. The County, as a pass-through entity, also retains oversight and responsibility for the performance of the financial assistance by its subrecipients. Pass-through entities must monitor subrecipients for program and fiscal compliance and generally must incorporate the fiscal and program activities of their subrecipients in their own reports to the original issuing agency.

The issuance of subrecipient agreements requires foresight and planning. Departments are encouraged to begin the process early and in consultation with the FAR Program. *Under no circumstances should a department pay a subrecipient for program services without a subrecipient agreement (e.g. using payment vouchers, etc.).*

Download the [Managing Financial Assistance – Process Flowcharts](#) and consult the “Grant Issuance” tabs to assist you with navigating the processes related to issuing subrecipient agreements.

## ▪ SUBRECIPIENT VS. CONTRACTOR

Upon receiving a financial assistance, a department may determine some or all of the requirements should be accomplished by one or more outside entities. After the projects have been properly conceptualized, the department is ready to determine the relationship of the potential outside entities to the County as either a subrecipient or contractor.

Completing the Subrecipient vs. Contractor Determination form is the first step in developing an arrangement of financial assistance with outside entities. *County departments wishing to issue funds originating from financial assistance from any funding source to outside entities must complete this form and document the determination in their records.* The form is a tool designed to assist the department in making the determination as to whether a portion of a grant award will be issued via a subrecipient agreement or contract. (Determinations should not be made ahead of time; the form is designed to serve as the process for making such determinations.) The form can be downloaded from [Finance’s Alfresco Share site](#) and is attached in [Appendix G](#) of this manual for reference purposes.

If it is determined the entity will perform part or all of the program objectives, a **subrecipient** relationship exists. Subrecipients are subject to both program compliance and, in the case of subrecipient agreements paid with federal dollars, are subject to federal regulations. Federal dollars paid by the County to subrecipients retain their status as federal dollars and are subject to audit regulations at the subrecipient level. Subrecipient agreements are grant awards. The

subrecipient agreement development process would be used to form an agreement with a potential subrecipient. The instructions for this process and all documents mentioned in this section can be found on Finance’s Alfresco Share site (for [federal subrecipient agreements](#) and for [non-federal subrecipient agreements](#)).

If it is determined the project can be completed by obtaining goods and services from an outside entity, a procurement relationship exists and the entity is considered a **contractor**. Contractors are not responsible for program compliance and in the case of contracts paid with federal dollars, are not generally subject to federal regulations. When federal dollars are paid by the County to contractors, even if from grant funds, they lose their status as *federal* dollars when issued in the form of a contract or subcontract. Contracts are not grant awards. The procurement process would be used to develop a contract with potential entities. Please contact the Procurement Division in the Finance Department. Federal procurement standards can be found in [sections 200.317-326 of the Uniform Guidance](#) and should be referenced when issuing contracts with federal grant money.

If the Subrecipient vs. Contractor determination results in a determination of subrecipient, you will be issuing a grant award to the outside entity and will follow the Notice of Funding Opportunity procedures outlined below.

### ***Conflict of Interest Procedures: Financial Assistance Management and Grant Issuance***

#### **Procedure:**

1. For **procurement transactions** made using financial assistance funds, the County Public Official must submit a completed a Procurement-issued “Disclosure of Real or Potential Conflict of Interest” form to the Procurement Division with their procurement request at [PACSRequest@clackamas.us](mailto:PACSRequest@clackamas.us). Procurement must determine:
  1. There are no current County contracts in place for the subject goods and services that will meet the department’s needs;
  2. A best effort is made to obtain price comparisons, documenting that the purchase or contract represents the best value to the County;
  3. The County Public Official, Relative, or member of the household has no additional knowledge or information about the purchase that would place them in an unfair advantage to receive this business from the County; and
  4. An appropriate process has been conducted to resolve or mitigate the real or potential conflict of interest while complying with the County ethics policies and other applicable regulations.
2. For **grant issuances or financial assistance-funded non-contract purchases**, the County Public Official submits a completed FAR Program-issued “Disclosure of Real or Potential Conflict of Interest – Grant Issuance and Management” form ([Appendix J](#)) to the Senior Compliance Specialist as soon as a potential conflict is identified for financial assistance-funded non-contract purchases or during the competitive grant-issuance process (NOFO) outlined below.

The Senior Compliance Specialist may consult with County Counsel, Human Resources, or other County management as part of any determination of the review. The department may work with the Senior Compliance Specialist to develop any necessary mitigation plan.

▪ **NOTICE OF FUNDING OPPORTUNITY (NOFO)**

To properly steward public funds and to avoid potential conflicts of interest it is County policy to issue grants to outside entities using an open and competitive process. A competitive process helps to reduce the chances of collusion and minimizes political pressures. It also offers a better opportunity for getting the greatest public benefit for the greatest value. To this end, this section provides a basic structure to be followed by County Departments when issuing grant awards. The County has identified Notice of Funding Opportunities (NOFO's) as the primary competitive process for the issuance of grants. It remains the responsibility of County Departments to follow the requirements of their funding agency, if any, for the competitive awarding of recipient and subrecipient agreements.

This section establishes procedural guidelines for the competitive issuance of County grant awards. Departments are responsible for policy implementation and adherence.

The NOFO process must be used for all grant awards issued by County departments and agencies to outside entities, with the following exceptions:

- Subrecipients specifically named either in the County grant application or County award document;
- Where the Board of County Commissioners specifically appropriates funds to a recipient;
- Subrecipients chosen by external committees or regional organizations with authority to authorize funding by the granting agency;
- Where grant funds are intended to be distributed among all qualified applicants rather than by open competition. In such cases, the department should use any requirements listed in their grant award to develop a "Request for Qualifications" (RFQ) process to publicly solicit applicants. Departments may contact the FAR Program to arrange to have their RFQs posted to the Finance Grants webpage on the County website;
- Subrecipients chosen by sole-source methods. Complete the [Sole Source Grant Award Request form](#) and send to the Finance FAR Program ([financegrants@clackamas.us](mailto:financegrants@clackamas.us)) to obtain approval for using this method of sub-awarding;
- Any other special circumstance approved by Finance.
- The NOFO should explicitly state the possible number of extensions or additional years that may be added, with a notation that additional years are contingent on funding. To preserve the competitive process, awards made via NOFO's should not be extended unless the potential option was made explicit in the original NOFO, nor should extensions be made to awards beyond the contingent years specified in the NOFO. Periods of performance for subrecipient agreements should generally be in line with the period of performance for your incoming financial assistance agreement. However, departments may issue subrecipient agreements for longer periods if your financial assistance award



can reasonably be expected to renew and the source of funding (i.e. CFDA number) has not changed. In such cases:

- “Contingency of funding” language should be explicit in both the NOFO and the subrecipient agreement(s) issued from it.
- Longer periods of performance for subrecipient agreements should not exceed the period of performance for two consecutive incoming financial assistance awards or four (4) years, whichever is shorter.

There are five required NOFO elements: advertisement or announcement, application, evaluation, notification, and appeal.

#### (1) Announcements

Announcements should include any links to the application or additional materials (such as those which may be required by your funding agency, e.g. a grant manual from HUD), but not the materials themselves. Departments are responsible for creating, at their discretion, a public presence for the application or supplementary materials, as well as maintaining the process for receiving completed applications. The announcements will be submitted to Finance for review ([FinanceGrants@clackamas.us](mailto:FinanceGrants@clackamas.us)). Finance will forward the material to PGA for publication on the County’s central website for Notice of Funding Opportunities: [www.clackamas.us/grants](http://www.clackamas.us/grants). PGA will maintain the website. In addition, departments are responsible for providing notice of the announcement in appropriately targeted media. Statements in each of the five languages identified in Appendix III of the [County’s Title VI policy](#), tailored to the NOFO, should be listed on the first page of the NOFO and in the targeted media, which will provide opportunities for applicants to request translation of the NOFO (paid by the department funding the agreement) and contact information to make such a request. Opportunities will be segregated within the website by grant and/or program type. The website will also contain a record of recently awarded grants. Announcements shall contain the following, standardized sections:

- Program Description. Include a full program description of the opportunity describing, at minimum, the technical requirements, required program components, and indicators of successful programs. Any other information deemed important by the department may be included.
- Award Information.
  - Include the funding source(s) for the program, indicating clearly whether and which federal sources (if any) may be included.
  - Indicate whether multiple awards will be issued from this announcement and the term of the award (e.g. multiple years, single year, etc.)
  - The anticipated start and end dates for the period of performance.
  - Include the reporting and frequency requirements.
  - Minimum and maximum award amount, as appropriate.
- Eligibility.
  - Clearly identify eligibility requirements.
  - Include any cost sharing/matching requirements.

- If funded by Federal funds, include a requirement that the applicant must have a DUNS number, be registered in sam.gov and not be disbarred or suspended.
- Application and Submission Information.
  - Include application deadline. It is recommended the open period for application be at least 20 business days.
  - Links to location of application forms with instructions for completion.
  - List of any supporting documents required.
    - FOR EXAMPLE: If a federally funded award: a copy of the applicant’s most recent audited financials, an inquiry as to whether there are any outstanding lawsuits against the applicant (with room to provide details), and a list of federal awards (with amounts) the applicant currently manages. (These materials are necessary for the required Risk Assessment.)
  - Where & how to submit application.
  - Funding restrictions which must be addressed in the applicant’s budget.
- Application Evaluation.
  - Outline of the application review process, scoring criteria and timeline.
  - For federal awards, departments are required, in conjunction with Finance, to complete a Risk Assessment on applicants and include the Risk Assessment outcome in their award determination as appropriate.
- Non-Discrimination.
  - Each announcement must contain the following language: “Per the Civil Rights Act of 1964, no person shall, on the basis of race, color, or national origin, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any County program, service or activity.”

## (2) Applications

So all applicants are provided the same information, application materials should be standardized for the purpose of any given award or set of awards. In the development of applications, funding agency considerations should be prioritized. Therefore, departments should develop applications which include all program elements, including budgets, pertinent to awards involving pass-through funds. Departments may collect application inquiries and post them as FAQ addendums to the award announcement on the website.

## (3) Record Retention

Awarding Departments must retain submitted applications and NOFO announcements for three years after the submission deadline, or as prescribed by your funding agency, per record retention requirements, including destruction at the end of the retention period.

## (4) Evaluations

Evaluation processes and criteria must be predetermined, in writing, and the process of evaluation and/or scoring must be fully documented and is subject to retention requirements.

As with applications, funding agency considerations should be prioritized in the development of evaluation criteria. Departments may choose scoring measures, narrative methods, or any other criteria appropriate to the award or required by the funding agency in the development of their evaluation criteria.

#### (5) Notifications

Departments should standardize and make explicit the notification of awards to applicants. Notifications should be made publicly available through a press release, posted on the internet, as well as provided to all applicants in writing. Notifications should also include when it is anticipated an official agreement will be issued, when costs related to the project may be incurred, how pre-award costs will be handled, and any other information the applicant should be made aware of prior to the commencement of the program. Recently closed NOFO's will be listed in a section of the NOFO website.

#### (6) Appeal process

Departments are encouraged to include an appeal process for applicants not awarded funds. If included, the process may be tailored to the individual NOFO, but must be in writing prior to the initiation of the funding opportunity, made explicit in the application (how the appeal will be evaluated, how the applicant will be notified of appeal review and final decision, etc.), and, if desired, constructive feedback on unsuccessful and appealed applications. Additionally, the evaluation of appeals must be documented in writing and is subject to the three-year retention policy.

If your primary funding agency requires a specific process for the competitive issuance of subawards, such a process may be used in lieu of the requirements of this section, *except* where this section is more restrictive. In such cases, your agency requirements should be supplemented by any additional requirements of this section. If there are conflicts between agency requirements and this section, your agency requirements should be followed. Departments following agency requirements are required to post NOFO announcements to the County's central NOFO listings page using procedures outlined in this section in addition to using any other forms of public listing.

#### ▪ ISSUING GRANT AWARDS

If you are issuing a subrecipient agreement using federal funds, download the [Managing Financial Assistance – Process Flowcharts](#) and consult the “Grant Issuance - Federal” tab to assist you with navigating the federal subrecipient agreement issuance process. Direct links to relevant and required documents are available within the flowchart for your convenience.

If you are issuing a subrecipient agreement using non-federal funds, download the [Managing Financial Assistance – Process Flowcharts](#) and consult the “Grant Issuance – State or Local” tab to assist you with navigating the issuance process for grants using state or local funds. Direct links to relevant and required documents are available within the flowchart for your convenience.

Departments must first obtain permission from their awarding agency before issuing subrecipient agreements from an award, if not already approved in the approved award application or agreement.

Finance has constructed a generalized boilerplate agreement document for both federally and non-federally funded subrecipient awards, complete with required exhibits that contain statutory and regulatory language governing the issuance of County subrecipient awards. Departments are expected to use the boilerplate language in the construction of their subrecipient agreements while supplementing the language contained therein with pass-through agency-specific requirements, regulations and other award information. (Exceptions involving less restrictive language should be pre-arranged with consultation from the Finance department.) Federal subrecipient agreements must use the provided federal subrecipient agreement boilerplates provided by Finance or, if renewal agreements, previously reviewed agreements from the immediate prior year. Whatever boilerplate is chosen, the Senior Compliance Specialist in Finance will review the draft agreement and risk assessment prior to further processing, as outlined in the flowcharts referenced in this section.

### ***Federal Subrecipient Agreement Required Elements***

All agreements with subrecipients funded from federal awards must contain required elements as specified in [2 CFR 200.331\(a\)](#) *Requirements for Pass-through Entities*, which includes assurances subrecipients will comply with the Single Audit Act. The requirements are built into the federal agreement boilerplate materials published by the Finance Department on the [Finance Alfresco Share site](#). Staff should consult their award letters (from the federal agency if a direct award, from the pass-through entity—such as the state—in cases of pass-through awards) to obtain the award information required to be included in the subrecipient awards issued by the County. Departments may find elements required for their subrecipient agreements are not readily available from the funding agency. In such cases, departmental staff shall put as much descriptive information about the award in the agreement as possible (2. CFR 200.331(a)).

Subrecipients must be advised of the federal requirements and provisions of the subrecipient grant agreements, including any additional requirements imposed by the State of Oregon, Clackamas County, or the Department.

### ***Risk Assessments***

Departments must perform a risk assessment on potential County federal subrecipients *prior to* the issuance of a subrecipient agreement. Risk assessments on non-federal awards are not mandatory, but encouraged. Finance has developed a standardized risk assessment for use by departments designed to be used with federal awards, also located on [Finance's Alfresco Share site](#). The purpose of the risk assessment is threefold:

- To assist in determining whether a subrecipient should receive an award from the County by assigning a risk score to the entity.

- The score provided by the risk assessment is used to assign a level of fiscal and programmatic monitoring to the subrecipient. See section D: *Managing Grants: Subrecipient Monitoring* of this manual, below, on how risk assessments are used in the monitoring process.
- To serve as part of the required documentary evidence of monitoring throughout the lifecycle of a subrecipient agreement.

The completed risk assessments (for those subrecipients receiving federal pass-through funding) are uploaded to [Finance's Alfresco Share site](#) so the department and Finance may reference or update the risk assessment as needed.

### ***Subrecipient Audits***

Audits are an important part of the subrecipient issuance and monitoring process. Audits assist in developing a comprehensive risk assessment for subrecipients. Depending on the size of the entity, various types of audits may be available/required. If a subrecipient has expended more than \$750,000 in federal expenditures in a fiscal year, the subrecipient is required to obtain a Single Audit, per [2 CFR 200 Subpart F](#). A Single Audit tasks an auditor with selecting, according to a technical definition, the "major [federal] programs" of an entity for compliance testing, as well as to perform testing on basic financial statements and on internal control systems. Organizations falling below this threshold may still have a general audit of basic financial statements and internal controls. Smaller organizations may simply have their financial statements prepared by an independent auditor. There are some circumstances where organizations are too small for even a general audit. In the last two instances, the County will seek to have potential subrecipients complete a questionnaire detailing their financial processes so that the County can assess the financial capacity of such organizations to handle grant awards. Whether a Single Audit, basic financial audit, prepared financial statements and completed questionnaire, or simply the questionnaire, each form of review is valuable to the County in the risk assessment process. *This information should be gathered from potential subrecipients and assessed prior to issuing a subrecipient agreement.* An Audit Certification Form will be sent by Finance Grants to the subrecipient for completion, and the entity should return the completed form along with their most recent audit, if applicable. If the entity has not received a Single or Financial Audit during the prior fiscal year, Finance Grants will request the entity complete the Subrecipient Questionnaire, designed to assess the minimum internal controls required to manage a grant. Electronic versions of these forms can be obtained from the Finance Department's [Alfresco Share site](#).

### ***Subrecipient Indirect Costs***

According to [2 CFR 200.331](#).a.4, pass-through agencies must provide recipients of federal pass-through funding with the opportunity for indirect cost recovery. If the applicant has a negotiated indirect cost rate with a federal agency, the County must honor that rate in the application on any federally-funded award that does not otherwise have regulatory or statutory limitations on indirect cost recovery. The applicant should provide the department with a copy of the negotiated indirect cost rate during the budget development phase.

If the applicant does not and has not had a negotiated indirect cost rate agreement with a federal agency and unless otherwise precluded by statute, the applicant is eligible to receive from the County’s pass-through award a 10% *de minimis* rate applicable to modified total direct costs (see glossary for definition; [2 CFR 200.414.f](#)). The rate would apply only to the federal portion of a County subrecipient agreement and not to state or local funding, in the case of mixed-funding awards. Note: if the subrecipient elects the *de minimis* rate, the rate must be used on all of the subrecipient’s federal awards that include indirect cost recovery.

Alternatively, for organizations the County decides would benefit from a different rate, the Senior Compliance Specialist can obtain data on administrative costs from the subrecipient to be used in support of establishing an individualized rate, only applicable to indirect cost claims on subrecipient awards made to that organization.

Subrecipients are not required to claim indirect cost recovery, but neither can they be coerced by funding agencies into declining such cost recovery methods.

When claimed, subrecipient budgets should contain a line explicitly showing indirect cost recovery, including the rate, a short description of the base to which the rate is applied, and amount, as shown in the example in Figure 2, below:

<b>Total Program Costs</b>	\$ 9,112.00	\$ 9,112.00
<b>Indirect Costs (14.1% of Salaries/Wages)</b>	\$ 5,685.00	\$ 5,685.00
<b>Total Grant Costs</b>	\$ 62,348.00	\$ 62,348.00

Figure 2. Indirect cost recovery in a subrecipient budget where subrecipient has a negotiated indirect cost rate agreement with the federal government.

County departments are not obligated to include indirect cost recovery opportunities in non-federally funded projects unless explicitly required by the funding agency.

**Requests for Reimbursement**

The Uniform Guidance ([2 CFR 200.415\[a\]](#)) requires the following specific certification language be included on certain subrecipient financial reporting forms:

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

Clackamas County has chosen to require all invoices (usually “requests for reimbursements”) submitted by subrecipients to contain the above language. Per federal regulations, the reports must be signed by an official who is authorized to legally bind the subrecipient organization.

## ***County Counsel Review***

All subrecipient agreements are required to be reviewed and approved-to-form by County Counsel prior to execution. Amendments to such agreements must also be approved by County Counsel if the amendments a) increase the value of the award, b) make substantive changes to the body of the agreement or c) extends the term of the grant. The Finance department will facilitate this process for federal subrecipient awards and amendments to such awards; departments facilitate the process for all other subrecipient agreements.

## ***Executed Federal Subrecipient Agreements and Amendments***

Fully executed federal subrecipient agreements and amendments to federal subrecipient agreements should be forwarded to the Senior Compliance Specialist by Department Agenda Coordinators when fully executed.

If you are issuing a non-federal subrecipient agreement, the major responsibility for issuing the award, fiscal monitoring, and closing out the award lies with the Department. Download the boilerplate and exhibits for non-federal subrecipient agreements from Finance's Alfresco Share site, complete and send to Counsel for review, obtain the subrecipient's signature, then route through County signature approval processes (Department/County Admin/BCC) as normal.

## ***Federal Funding Accountability and Transparency Act (FFATA) Reporting***

When the County receives a direct federal award and issues a subrecipient agreement greater than \$30,000, FFATA reporting requirements are in effect. The County's Senior Compliance Specialist will report qualifying subrecipient awards through the [www.USASpending.gov](http://www.USASpending.gov) website within the month following the month of the award. If the initial award is less than \$30,000 but subsequent amendments result in a total award equal to or over \$30,000, the award will be subject to reporting requirements.

## ***Fixed Amount Awards ([2 CFR 200.201b](#))***

Fixed Amount Awards are a type of subrecipient agreement reducing the administrative and compliance burden on both the pass-through entity and the subrecipient. Subrecipients receiving federal fixed amount awards are not subject to the cost principles of the Uniform Guidance and, therefore, there is no governmental or County review of the actual costs incurred by the subrecipient.

Accountability is based on clearly defined performance outcomes, delineated in the agreement. If a subrecipient only partially meets performance outcomes, the award would be reduced in proportion to the outcomes met.

Rather than payment based on reimbursement of actual costs, payments are based on meeting specific performance requirements of the Federal award and may be paid in several ways:

- In several partial payments, with the accomplishment of milestone events triggering the payment from the County
- On a unit price basis at a defined price (i.e. # of students mentored, etc.)
- In one lump payment at the completion of the subaward. (For agreements of short duration, this would be the preferred method.)

Conditions on issuing fixed amount awards:

- For fixed cost awards made with federal money, the County must receive prior approval from the federal agency.
- Fixed amount awards cannot be used in programs requiring mandatory cost sharing or match.
- The project scope must be specific so as to measure performance outcomes.
- Historical or unit pricing data must be available to establish a reasonable fixed amount award total based on a reasonable estimate of cost. One way to accomplish this is to require a budget and accompanying narrative from the subrecipient in the application phase. The budget and narrative would only be used for ensuring agreement amounts are reasonable and based on historical data, but would become part of the record of prior due diligence for the County.
- Fixed amount awards may not be made for amounts over \$150,000.
- At the end of the period of the award, the subrecipient must certify in writing to the County the project or activity was completed or the level of effort was expended.

Fixed amount awards can be especially helpful for the County and its subrecipients for projects that have been around for a while (i.e. have historical data to draw from), for smaller awards which reduce the monitoring and administrative burden for everyone, where the subrecipient is not considered high-risk, and for projects clearly tied to performance outcomes.

### **C. FISCAL CONTROLS OVER FINANCIAL ASSISTANCE FUNDS**

This section outlines fiscal policies related to the receipt and expenditure of grant funds. The internal control systems represented in this section are designed with the Internal Control Integrated Framework issued by the [Committee of Sponsoring Organizations \(COSO\)](#) in mind.

#### **■ REQUESTING GRANT FUNDS – DRAWDOWNS AND REQUESTS FOR PAYMENT**

Processes for drawing down financial assistance funds or requesting payment on grant awards vary widely by funding agency. Variations include but are not limited to:

- **Cost-Reimbursement:** Agency-designed online request systems that must be used to retrieve financial assistance funds once corresponding amounts of expenditures have been accumulated, or require invoicing with general ledger backup for grant checks to be released.



- True-up: Disbursement of funds in regular intervals and regular (or irregular) amounts irrespective of expenses incurred, with “true-ups” to actual expenditures coming at later intervals.
- Advanced payment: Advanced payment, which allows recipients to draw funds to cover immediate cash needs prior to having incurred expenditures.
- Unit of service: “Unit of service” reimbursements do not disburse funds on actual expenditures incurred; rather, funds are tied to “units of service” and paid at set amounts based, for example, on the number of homeless shelter clients housed, number of meals to senior citizens served, etc.

It is the policy of Clackamas County to request federal funds based only on cost-reimbursement or immediate cash needs. Departments are instructed to follow the rules on minimization of time between cash receipt and expense provided with the awarding agency rules and regulations. Requests for advanced payment must have prior approval from the Deputy Finance Director.

Other, non-federal agencies may use different methods of disbursing financial assistance funds. At all times, funding agency rules should be followed when requesting or receiving grant funds from any source.

- **Adherence to Grant Rules**

Follow closely the drawdown rules and procedures listed in your funding award or in federal or state statutes and regulations. Contact the awarding agency before signing any contracts or agreements if the procedures are not listed in the terms and conditions.

- **Draw frequency**

Draws will be conducted according to the grant requirements or more frequently (where allowed), depending on County cash flow needs. Since it is normally the policy of Clackamas County to request federal funds on a cost-reimbursement basis, department cash flow needs should be considered when agreeing to any draw frequency restrictions. FAR accountants will work with the Treasurer’s office to identify incoming funds. [Instructions for filling out a deposit summary](#) are outlined on the [Treasurer’s intranet](#).

- **Authorized persons**

Draws are to be performed by Financial Accounting and Reporting (FAR) Program, unless specifically authorized by the Department of Finance. Additionally, if the award requires an active request for funds to be received through an online system, the [department’s assigned FAR Accountant](#) must be included in the “authorized persons” setup in the online drawdown system. For departments authorized to perform their own draws, the department must designate a FAR Accountant from the FAR Program as an authorized user. This will allow FAR to serve an important backup function for drawing funds in the case of emergencies, prolonged absences or vacancies.

- **General Ledger-based**

Drawdowns on cost-reimbursement awards will be requested from source data derived from the County's ERP. *Unless specifically instructed by the funding agency, drawdowns will not be made based on budgeted figures (e.g. taking an approved budget and drawing 1/12<sup>th</sup> of the funds monthly).*

- **Required approval**

Review and approval, indicated by signature and date, from the Deputy Director of Finance or Director of Finance is required prior to making the draw.

- **Financial Assistance-related Cash and Check Handling**

Federally-funded financial assistance-related cash or checks (excluding Medicaid funds) received by County departments, usually as program income, must be deposited according to the [County Treasurer's policies](#). Departments should notify the Treasurer's office in the event of a loss, robbery or theft of County funds. For more information, see the [Office of the County Treasurer's intranet page](#).

In the case of loss, robbery or theft of grant funds, Finance and the Office of the County Treasurer should be notified immediately. Finance will be responsible for notifying the County Internal Auditor and the funding agency, as required per grant agreements and state or federal regulations or statutes.

- **RECEIVING GRANT FUNDS - REVENUE**

Grant funds are typically received either by check or Automated Clearinghouse (ACH) through the draw-down of funds. Occasionally grant funds (usually as program income) may be received in the form of cash. Receipts are issued by the department for every *in-person* transaction, per County Treasury's list of best-practices, using pre-numbered receipts, with the numbers logged and accounted for. For up to date information on [cash and deposit rules](#), or to [set-up the receipting of an ACH/EFT](#), see the [Treasurer's intranet page](#).

***Financial Assistance Revenue: Cash Handling***

Financial assistance-related cash is occasionally received in County departments. Cash relating to federal grants is counted by the receiving party in the presence of another employee immediately upon receipt. A Departmental Check and Cash Log (see example at [Appendix E](#)) is prepared by the person receiving the cash that describes the auspices under which the cash was received (e.g. from whom, from which event, for which funded project, etc.), is coded for posting using the appropriate PeopleSoft chartfield string, and is signed and dated by both employees. For those departments not normally receiving cash as part of daily operations, the log and cash are immediately hand-delivered (no courier allowed for cash) to Finance for safekeeping and processing in the daily deposit. A copy of the log should be kept by the department.

The County Treasurer reserves the right to review the internal control procedures related to cash handling of all County departments through both formal and informal internal control evaluations. The County Treasurer's recommended [best practices over cash management](#) can be requested from the Treasurer's office and found on their [intranet page](#).

### ***Grant Revenue: Check Handling***

#### *Checks received directly by Departments*

Occasionally financial assistance revenue is received directly by departments in the form of checks through the mail. [Procedures for opening mail that could include cash \(e.g. checks\)](#) can be found on the [Treasurer's office intranet](#). Employees designated to open departmental mail log grant checks received into a Departmental Check and Cash Log (see example at [Appendix E](#)). Checks are locked securely by the person opening departmental mail or the departmental accountant; a copy of the log and the checks should be kept by the department. Checks and original logs are then transmitted daily to Finance for processing in the daily deposit for those departments not normally receiving checks as part of daily operations.

#### *Checks received directly by Finance*

The Finance Department's internal control procedures over cash and check handling can be found in its internal Cash and Check Handling Procedures, which is incorporated by reference into this Financial Assistance Manual.

### ***Treasury Deposit***

#### *Armored car service*

Armored car service is available for all departments and offices throughout the County. For more information on armored car pickup, contact the Treasurer's Office.

The Treasurer's Office also accepts deposits for daily armored car pickup during normal business hours. Due to safety restrictions and best practices, a department or office must receive preapproval from the Treasurer's Office prior to dropping their cash deposits off at the Treasurer's Office.

Treasury staff logs deposits on the armored car log and puts the deposit into the safe. The deposit is taken to the bank by the armored car service daily.

#### *ACH/EFT deposits*

Many financial assistance-related deposits are received via ACH transfer. Treasury downloads previous day bank activity from the County's bank website. The deposit summary received from the department who deposited the funds is reconciled to the bank report.

For those deposits where Treasury has not received a deposit summary, Treasury prepares a list of deposits received and emails department contacts in the County. The departments identify the funds that belong to their department. The department [prepares and submits a deposit summary](#) to Treasury on the same day they are made aware of the deposit as outlined on the [Treasurer's intranet](#). Treasury reconciles the deposit summary to the bank report. The deposit is then posted in PeopleSoft to "cash" at the funds level on the Treasurer's general ledger subsidiary system. Treasury uploads the deposit summaries that are posted into Application Extender for use by the entire County and its component units.

### ***Grant Revenue: ACH funds***

The Accounts Receivable Accountant 1 logs into Application Xtender daily to print out deposit summaries. The Accountant 1 enters the deposits into PeopleSoft.

#### ▪ **SPENDING GRANT FUNDS**

### ***General Procurement Standards***

The County has documented procurement procedures which conform to applicable federal law and procurement standards covered in 2 CFR Part 200, Sections 200.317-200.326 and Appendix II, [County Code](#), and [LCRB rules](#) which comply with state ([ORS 279 A, B & C](#)) and local laws and regulations. The rules apply to all procurement methods. County-issued grant awards and subawards are not procurements, and therefore do not fall under ORS 279C or the competitive procurement requirements therein, unless required by the original funding agency/agreement. Instead, competitive issuance of grants and subawards fall under the Notice of Funding Opportunity methods outlined in Section B of this manual. Other forms of grant expenditures, the internal control processes governing them, and the procedures by which these expenditures are incurred are outlined in the following sections.

Purchases charged to grants may be made through several procurement processes:

- Purchase Orders
- Payment Vouchers
- Contracts
- Pcard (County-issued credit cards)

Financial assistance expenditures should generally be in line with budgets approved by the awarding agency, as applicable, and department grant, administrative and program staff (where applicable) are responsible for monitoring expenses against approved budgets. Where no budget exists, expenditures should conform to the intent and purpose of the grant award. Expenditures charged to financial assistance must be allowable per governing statutes and regulations, allocable to the financial assistance relative to the benefits received by the funded program, and reasonable (i.e. a prudent purchase given the circumstance prevailing at the time of purchase).

### **Conflict of Interest Policy (Financial Assistance Purchases)**

It is the policy of Clackamas County that all business will be conducted in a manner above reproach and, except as authorized by statute, County Code, or County policy, with complete fairness and without preferential treatment. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is to avoid any conflict of interest or even the appearance of a conflict of interest in government-contractor relationships. While many laws and regulations place restrictions on the actions of Public Officials, their official conduct must, in addition, be such that they have no reluctance to make a full public disclosure of their actions. Therefore, all grant-issuances and grant management must be conducted using the highest ethical standards. Any grant-issuances or grant management not conducted in compliance with this policy could potentially result in a financial conflict of interest.

County Public Officials will not engage in collusive behavior. Collusive behavior includes, but is not limited to, making agreements or understandings between two or more persons to commit a fraudulent, deceitful, unlawful or wrongful act in order to provide an unfair advantage or to in any way circumvent required grant management or grant issuance processes. Public Officials may not take any action that is intended to limit open competition by deceiving, misleading, or defrauding others or involve any type of grant-issuance rigging, kickbacks, or misrepresenting the independence of the relationship between the colluding parties.

County Public Officials may only make financial assistance-funded purchases from or issue grant awards to other County Public Officials, Relatives of County Public Officials, members of the County Public Official's household or to entities controlled by such if the County Public Official is not involved in grant-funded purchases or the selection, award, or administration of a County-issued grant *and* all of the following requirements are met:

1. The County Public Official must complete the "Disclosure of Real or Potential Conflict of Interest – Grant Issuance and Management" form (Exhibit J) and submit to the Senior Compliance Specialist for review.
2. It has been determined by the Senior Compliance Specialist or County Administrator, through the procedure below, that no real conflict of interest exists.

### **Federally-Mandated Procurement Contract Provisions**

All contracts awarded by Clackamas County to subcontractors and involving a federally-funded purchase of goods or services, including small purchases, must include certain federally-mandated procurement contract provisions, including:

<b>Provision</b>	<b>Citation</b>
Recipient Termination	2 CFR Part 200 Appendix II
Equal Employment Opportunity	E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60,

	"Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
Clean Air Act	42 U.S.C. 7401
Federal Water Pollution Control Act	33 U.S.C. 1251
Energy Efficiency	2 CFR Part 200 Appendix II
Copeland "Anti-Kickback" Act	18 U.S.C. 874 and 40 U.S.C. 276C
Byrd Anti-Lobbying Amendment	31 U.S.C. 1352
Debarment and Suspension	Executive Orders 12549 and 12689
Recycling	2 CFR Part 200 Appendix II
Davis-Bacon Act	40 U.S.C. 276a to a-7
Contract Work Hours and Safety Standards Act	40 U.S.C. 327-333
Rights to Inventions Made Under a Contract or Agreement	37 CFR part 401
Contractor Breach Clause	2 CFR Part 200 Appendix II

All contracts awarded by Clackamas County to subcontractors and involving a federally-funded purchase of goods or services, including small purchases, must also contain the following contract clauses:

- Provisions allowing for administrative, contractual, or legal remedies where contractor violates or breaches contract terms as well as remedial actions
- Provisions addressing termination by Clackamas County, including the manner of termination and basis for settlement
- Provisions addressing termination of the contract for default as well as circumstances beyond the control of the subrecipient
- Provisions for bid guarantees, performance bonds and payment bonds
- Provisions allowing access to subrecipient records by Clackamas County, federal awarding agency, Comptroller General of the United States and any other duly authorized representative

Boilerplate contracts used by departments must contain the required elements listed here. For an in-depth discussion of these contract provisions, reference [2 CFR Part 200 Appendix II](#). Consult the Procurement Division with questions concerning any of the required elements.

### ***Affirmative Steps***

Clackamas County takes all necessary affirmative steps to ensure that minority businesses, women's business enterprises, and labor surplus area firms are used in the contracting process when possible.

### ***Delegation of Signature Authority Process***

The County has established a Delegation of Signature Authority Process as an essential internal control process to set the authorization levels for County purchases, including purchases using financial assistance. The Delegation of Signature Authority Process is completed annually (by fiscal year) to allow auditors to validate the County payment process for the fiscal year in question. The process is in place as an internal control to document both the authorized

purchaser and the Procurement thresholds for authorized purchasers. The designations and Procurement limits are determined by each department to meet their business needs. In most cases, the delegated authority will not exceed \$150,000. Accounts Payable uses these delegations to confirm authorized purchases and limits for County purchases prior to payment. Finance is responsible for maintaining this system. Contracts may only be signed by individuals occupying the positions listed in the LCRB Rules C-050 (County Code Appendix C) which are set by the County Board of Commissioners. Contract signature authority cannot be delegated to other department staff. (See [County's policy on the intranet.](#))

### **Labor Reporting**

#### (1) Charging of Salaries and Benefits

Clackamas County charges salaries and benefits as an allowable cost to financial assistance awards when the nature of that employee's work is directly attributed to that program or service. Employees complete timesheets which reflect their work that is attributed to each eligible funding source. Benefits include the normal and customary costs of insurance, pensions, and taxes, as well as the costs of leave (e.g. regular compensation paid to employees during periods of authorized absences from the job, such as vacation, holidays, family-related leave, sick leave, administrative leave, and other similar benefits).

In addition, the County will charge salaries and benefits for financial assistance-funded personnel to awards when extraordinary circumstances render the County closed and unable to provide services through no fault of the personnel. In the event of such extraordinary circumstances, these charges will be fair and equitably allocated to financial assistance through a lookback period of the prior two biweekly pay periods or one month, whichever is relevant, of hours worked.

#### (2) Labor charging process

Clackamas County has the following approved processes by which labor (including volunteer hours) may be charged to financial assistance:

- a. Employees will record their time worked on financial assistance and non-financial assistance funded activities by using either an electronic time tracking system or manual paper timesheets. Electronic signatures are acceptable within the time tracking system, while signature and date are required by employee and supervisor for manual timesheets.
- b. Semi-annual certification of employees charged 100% to financial assistance-funded projects signed by employee and supervisor.

#### (3) Any other system approved by the awarding agency.

Method "a" requires departmental grant staff or Finance grant accountants perform an after-the-fact, manual distribution of time via journal entry into the PeopleSoft accounting software to ensure awards receive an equitable share of the distribution of labor.

Method “b” is used when an employee is 100% charged to a federal financial assistance award. Certifications must be completed semi-annually or at closeout, whichever is sooner. A general description of the duties of the employee during the certification period is listed on the certification. A sample of the County-approved certification document can be found in [Appendix E](#).

The County adheres to the following principles related to documentation of labor costs charged to local, state and federal grants:

- A. Clackamas County must comply with labor reporting requirements whether labor is charged to a federal award for salaries and wages as a direct cost or as part of an indirect cost pool.
- B. Payroll and corresponding distributions to financial assistance awards must be documented and approved by an employee’s supervisor.
- C. Documentation must be maintained for all staff members reflecting the distribution of labor activity of each employee. This requirement includes professionals and nonprofessionals whose compensation is charged, in whole or in part, directly to financial assistance. Documentation must support the distribution of the employee’s salary or wages across cost objectives if the employee works on:
  - a. More than one financial assistance award;
  - b. An indirect cost activity and a direct cost activity;
  - c. Two or more indirect activities which are allocated using different allocation bases; or
  - d. An unallowable financial assistance activity and a direct or indirect cost activity.
- D. Labor Reports shall reflect an after-the-fact determination of the activity of each employee and account for the total activity for which employees are compensated. Time worked on federal awards and non-award hours must be tracked.

Departments may reference [Appendix J: Selected Items of Cost Compensation for personal services-support of salaries and wages](#) for further information on the labor reporting requirements on federal awards.

### **Travel**

Authorization is required for advances and reimbursement of travel expenses. Authorization follows the County’s Delegated Signature Authority policy ([intranet only](#)). Reimbursement of travel expenses requires original receipts (with some exceptions—see Travel Policy) and must be documented on the Training/Travel Request Authorization Form. Financial assistance-related travel expenses must be reasonable and necessary to the performance of the award.

All travel charged to financial assistance -funded programs must be authorized within the approved awarding agency budget or otherwise authorized by written permission from the awarding agency. Some agencies require additional travel authorizations beyond budget approval. See the financial assistance award documents and regulations for details.



All financial assistance-related travel must conform to the County's approved [Travel Policy](#). Where awarding agency travel policies are more restrictive than County policy in terms of travel cost reimbursement, departments are expected to reimburse the difference to the employee with other funds.

## **D. MANAGING FINANCIAL ASSISTANCE**

### **▪ COSTS - OVERVIEW**

Financial assistance funds must be spent in accordance with the terms and conditions of the award or governing laws or statutes and consistent with regulations governing allowable costs. Therefore, prior to making an expenditure, program personnel must be aware of what costs are allowable and disallowable under the financial assistance as well as what costs are considered direct and indirect. A general discussion of costs follows.

#### ***Allowable and Unallowable Costs***

Allowable costs are those costs that fit the definition for authorized expenditures as stated in the applicable cost principles. Authorized expenditures comprise those expenditures that are:

- |   |   |   |
|---|---|---|
| ✓ Allocable   | ✓ Net of all applicable credits   | ✓ Conforms to limits or exclusions on types or amounts of costs as stated in cost principles, federal laws (when applicable), and terms and conditions of award |
| ✓ Reasonable and necessary  | ✓ Not included as a cost or used to meet the matching requirement for another grant | ✓ Consistent with recipient policies, regulations, and procedures   |
| ✓ Treated consistently as a direct or indirect cost                             | ✓ Authorized under local laws   |   |
| ✓ Determined in accordance with Generally Accepted Accounting Principles (GAAP) | ✓ Well-documented   |   |

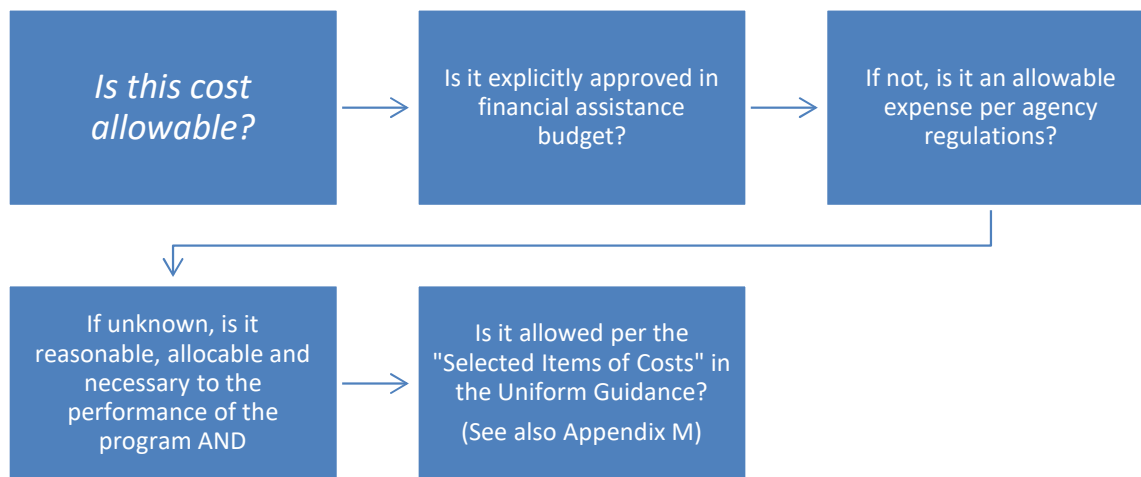


Figure 3 Determining Allowable Costs

In addition to expenditures charged to County financial assistance, subawards granted by the County must also adhere to the cost principles outlined in this manual. Explanations for several key concepts are as follows:

**Allocable**

A cost is “allocable” to a financial assistance award if the goods and services purchased are related equitably to the benefits received by the funded program. This standard can be met if the cost:

- Is incurred specifically for the award;
- Benefits both the award and the other work of the County and can be distributed in proportions that may be approximated using reasonable methods; and
- Is necessary to the overall operation of the County and is assignable in part to the award using an allocation method that assigns the cost based on proportional benefit to the award-funded project and other County cost objectives.

**Reasonable and Necessary**

A cost can be considered “reasonable” if, in both its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. Whether a cost is necessary for the performance of an award is important in establishing whether the cost is reasonable. The prevailing market price in our geographical area (where applicable), and whether the incurring of the cost required the County

to deviate significantly from its established practices and policies are also important factors in determining reasonableness.

### ***Consistent Cost Treatment***

Costs incurred for the same purpose and in like circumstances must all be treated the same. For example, an equipment cost cannot be treated as a direct cost in one instance and an indirect cost in another instance if it was incurred for the same reason and under the same circumstances against the same federal award.

### ***Net of Applicable Credits***

A cost is “net of all applicable credits” if it takes into account any credits received toward the cost. For example, if program income was generated as a result of a grant-funded cost, the amount charged to the grant must be reduced by the amount of the program income in order to be allowable.

### ***Well-documented***

In most cases of disallowed costs, the cause is a lack of proper documentation. All costs require an invoice, original receipt, purchase order, contract or other forms of documentation. All cost documentation requires authorized signatures and evidence of receipt of the goods or services purchased. The County’s Delegation of Budget Authority policy ([intranet only](#)) governs the signature requirements on purchases. Staff that does not have designated signature authority are not authorized to approve or execute any transactions that require such authority.

### ***Selected Items of Cost***

To view an itemized list of allowable costs, reference the [Appendix L: Selected Items of Cost](#).

If a County department uses financial assistance for unallowable costs, the department will need to repay those funds to the funding agency.

### ***Direct and Indirect Costs***

A direct cost is one specifically identified to the award. For example, the purchase of police equipment for a federal financial assistance award used to benefit local law enforcement is an example of a direct cost. Direct costs can be paid by the grant so long as they are allowable, reasonable, and can be justified from the awarding agency-approved budget.

An indirect cost is one benefitting more than one objective or program and cannot be readily identified to the financial assistance award. For example, the salary and benefits of an Executive Director at a non-profit or of a Department Director at the County would be considered an indirect cost.

County departments may not claim the federal *de minimis* rate on their grant awards. Current federal regulations require an entity to use the federal *de minimis* rate on all awards if used on one award—a restriction the County seeks to avoid. Some funding agencies may allow a different indirect cost rate. County departments may exercise such indirect cost rates, if desired.

When indirect costs are unavailable or prohibited, the County encourages departments to use the direct cost method in seeking to recover administrative costs, when allowed. Consult with FAR if you need assistance in administrative cost recovery in your financial assistance application budget.

### ***Allocated Costs***

Allocated costs are those costs of a general nature benefitting all of the functions of an organization. They are “allocated” to the major functions of the organization using a methodology and cost allocation plan developed by the organization that is reasonable given the nature of the costs included in the plan. Such plans usually include but are not limited to costs such as insurance, utilities, technology maintenance, and rent. An organization (such as a subrecipient) may have allocated costs and still recover indirect costs, if their cost allocation plan does not include certain costs, such as administrative staff salaries and benefits.

#### ▪ **BUDGETS**

County departments are required to track and reconcile grant expenditures against approved grant budgets, where applicable. The federal government generally categorizes costs into 8 types: personnel, fringe benefits, travel, equipment, supplies, contractual, construction, and other. County financial assistance budgets should generally align with these categories for ease in tracking and reconciliation, except in cases where the funding agency requires otherwise. Even though the federal government has noted these categories as comprising an award budget, the County must still ensure the costs falling under these categories are allowable expenses per the applicable cost principles and awarding entity regulations. For example, travel costs are an allowable expense on many federal grants; however, costs for a first-class ticket when coach tickets were available may be disallowed as unreasonable. Some federal agencies require prior approval for travel even if travel is explicitly listed in the agency-approved budget. Read your financial assistance agreement carefully for specific requirements.

#### ▪ **BUDGET ADJUSTMENTS**

Entities receiving federal funding must generally abide by the limits on changes to approved budgets as outlined in 2 CFR 200.308 Revision of budget and program plans. Funding agency-specific guidance and your grant agreement should also be consulted regarding changes to approved budgets for both federal and non-federal awards.

### ***County Subrecipient Budget Adjustments***

The budget adjustment regulations in [2 CFR 200.308](#) govern budget and program plan revisions on County-issued federal subrecipient agreements. Consult the cited regulation for general

guidelines on how to manage federally-funded subrecipients. Consult your federally-funded financial assistance award for additional requirements related to budget and program plan adjustments for your subrecipients; guidance that applies to how the County must request budget changes on its federal awards generally also flows to subrecipients.

For monitoring County subrecipients funded with non-federal funding, departments are encouraged to abide by the following budget adjustment best practices, adapted from the federal regulations:

- Budget adjustments of less than 10% in the aggregate (not by line item category) need not require formal approval by the department;
- Budget adjustments of more than 10% in the aggregate (not by line item category), may be approved by the department *if all of the following apply*:
  - The scope of work does not change as a result of the budget adjustment. Exceptions: scopes of work may change during a budget adjustment if a previously funded position has been replaced by a substantively different position, if a funded position critical to the program has been dissolved and subrecipient desires to spend the funds in another funded category, or if a budgeted program activity will be eliminated from the program;
  - The subrecipient does not seek to increase the rate/amount of indirect cost recovery as part of the budget adjustment;
  - The total amount of the budget does not increase.

If any of the preceding apply to the budget adjustment requested by your subrecipient (from any funding source), BCC/County Administration approval is required using the normal agreement amendment process. Federal regulations cited in this section contain additional requirements related to budget adjustments that are not made explicit here and should be consulted directly when managing the County's federal award budgets and federally-funded subrecipient budgets.

#### ▪ **ADJUSTING JOURNAL ENTRIES**

Appropriate journal entries made to financial assistance-funded projects include those that:

- ✓ Change or correct coding of transactions
- ✓ Distribute costs billed to a central cost pool

To initiate a journal entry on a financial assistance-funded project, staff—at the department level or in Finance—must prepare a journal entry for submission and processing within the Finance department. All journal entries must be in the same amount as the original charge unless the transfer is being divided among different departments or departmental units. If divided, an explanation of the division must accompany the journal entry. Journal entry support must be sourced from PeopleSoft accounting data. The department requesting the cost transfer must have incurred the item of cost, as documented within PeopleSoft, and must identify the goods and services and their quantities in the journal entry request. Journal entries should be submitted as soon as possible once the needed distribution or correction is identified.

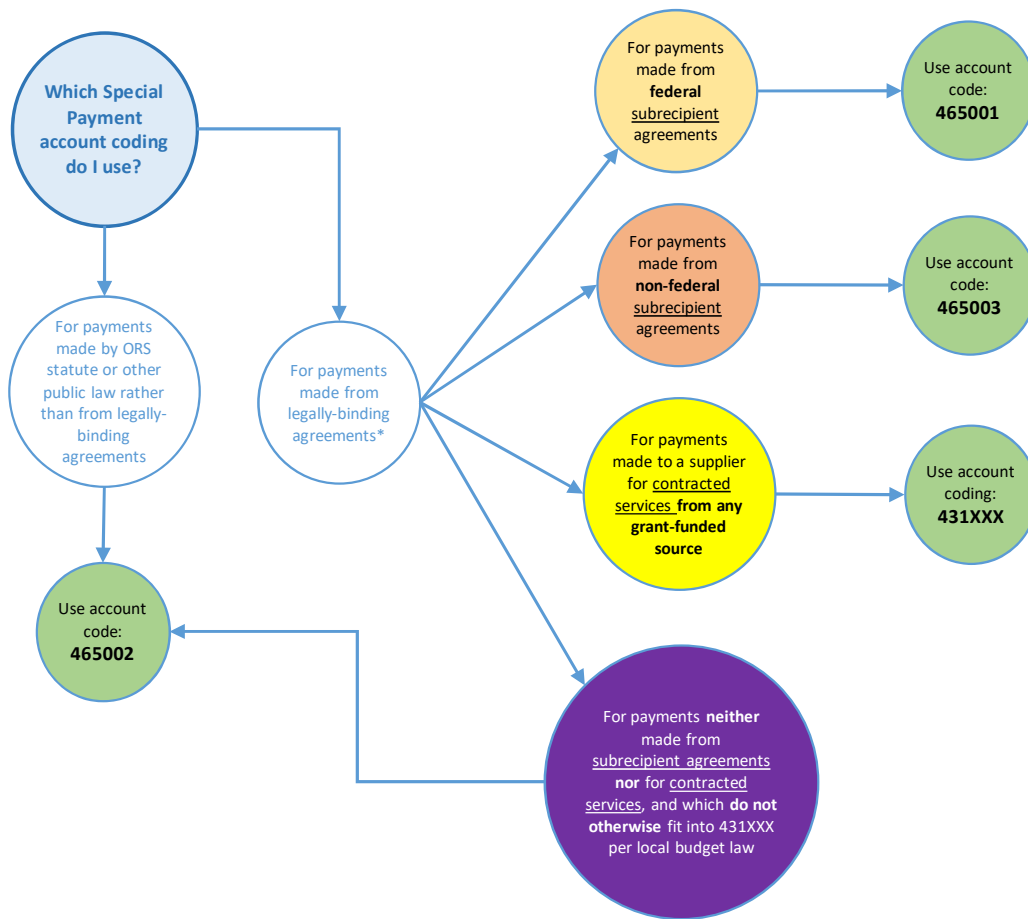
Journal entries prepared by the department require department manager approval. Additionally, all journal entries require Finance Controller (or delegate) approval prior to posting in PeopleSoft.

▪ **HOW TO USE *SPECIAL PAYMENTS ACCOUNT CODING***

Local Budget Law requires expenditures and other requirements be shown within the budget according to certain object classifications. Expenses generated from grants issued by the County to outside entities, either on a direct or pass-through basis, are classified within Budget Law as “special payments.”

The flow-chart below should be used to determine where to post your special payments in PeopleSoft. [This chart can also be downloaded from Alfresco](#) and printed for easy reference.

**How to use Special Payments account coding**  
*Applicable to all grant-funded payments made to Special Payments accounts*



\* - For the purposes of County policy, something is "legally-binding" when in the form of a written agreement or contract reviewed by Counsel (including IGA's), signed by an individual authorized to sign on behalf of the County per LCRB rules, and issued to an outside entity.

## ▪ PROGRAM INCOME

County departments must account for program income generated by financial assistance activities according to the terms and conditions of the award. Program income is gross income earned from financial assistance activities generating direct costs allocable to the grant award. For example, fees earned from the sale of products or services under the financial assistance may be considered program income since the creation of those products or services generate direct costs allocable to the funded program. Any drawdown of federal financial assistance funds must take into account program income. Program income is often included in grant award budgets and with the prior approval of the Federal awarding agency, may be used to meet the cost sharing or matching requirement. With prior approval from the Federal awarding agency, it may also be added to the award to increase the total award. Another way of accounting for program income may include defrayment of program costs resulting in a reduction of the total award. Your funding agency can provide guidance on the proper method of accounting for program income.

Not all program income requires reporting. Refer to the Cost Sharing (Match) section of this manual (below) or other guidance accompanying your federal, state or local financial assistance award (if provided) to determine the types of program income that must be reported against drawdowns of financial assistance funds.

## ▪ PROPERTY

The [Property Standards section of 2 CFR Part 200 Subpart D](#) governs the treatment of property acquired with federal grant funding. The three types of property discussed in the administrative requirements include real property, personal property and intellectual property. Detailed instructions regarding the acquisition, titling and disposition of property appear in the applicable administrative requirements and in the terms and conditions of your financial assistance award. General guidelines governing the treatment of federally-funded property appear below. Consult your state agreement for policies governing property, equipment and supplies purchased with state funds.

### ***Real Property***

Clackamas County may receive title to property purchased with federal financial assistance funding subject to the condition that the real property is used in accordance with the purpose of the funded program and not encumbered without prior approval from the federal awarding agency.

When real property is no longer needed for its original purpose, departments will request disposition instructions from the federal awarding agency. The County may retain the title after compensating the Federal agency, sell the property and compensate the agency or transfer title to the agency. Departments will follow federal agency directives regarding the sale of real property acquired with federal grant funds.

## ***Equipment and Supplies***

Capitalization of equipment and supplies valued in aggregate purchased with financial assistance funds are set by the County's Capitalization Policy, *except* for equipment and supplies purchased with federal funds. For equipment and supplies purchased with federal funds, capitalization is set at \$5,000.

As with real property, the County may receive title to equipment purchased with federal financial assistance funding so long as the equipment is used in accordance with the purpose of the funded program and not encumbered without prior approval from the federal awarding agency.

Equipment is further divided into "Special Purpose" equipment" and "General Purpose" equipment. "Special Purpose" equipment includes equipment which is used for research, medical, scientific and other similar technical activities. "General Purpose" equipment is defined as equipment whose use is not limited to "Special Purposes."

"Special Purpose" equipment is generally allowable as a Direct Cost to the federal award. Departments will obtain prior approval of the Awarding Agency to purchase equipment costing over \$5,000 when required by regulation or statute. "General Purpose" equipment will not be charged as a Direct Cost to the federal award without prior approval of the Awarding Agency.

County departments may trade-in or sell equipment in need of replacement and use the proceeds to offset the cost of the replacement equipment with prior approval from the federal awarding agency. Per federal regulations, for equipment valued at less than \$5,000, departments may keep the equipment when it is no longer needed for its original purpose. For equipment valued at more than \$5,000, County must pay the federal awarding agency a portion of the market value or sale proceeds based on the percentage of the equipment funded by the federal awarding agency, unless otherwise arranged.

Departments must inventory and account for supplies purchased with federal funds if the supplies are valued at over \$5,000 in the aggregate.

## ***Equipment Records***

Departments must maintain equipment records for all financial assistance-funded equipment. Equipment records must indicate:

- A description of the equipment
- Manufacturer's serial number, model number, or other identification number.
- Source of the equipment, including the federal grant award number. (This number is a required element of federal pass-through contracts with the state. If it is not provided in your state agreement, contact your state program officer.)
- Owner of the property (federal government or County)
- Acquisition date or date received
- Cost of equipment



- Details indicating the percentage of federal participation in the cost of the equipment
- Location of equipment and date reported
- Condition of equipment and date reported
- Unit acquisition cost
- Date of disposal (if applicable)
- Disposal price (if applicable)
- Method used to determine the fair market value for disposal price (if applicable)

See [Appendix H](#) for a sample Property Records checklist that can be adapted for use with equipment purchased on different awards.

### ***Equipment Maintenance***

Financial assistance-funded equipment must be maintained by the County department initiating the purchase. “Maintained” means that the equipment is properly accounted for (i.e. inventoried), secured against theft or other loss, and kept in usable condition according to the manufacturer’s recommendations until the expiration of useful life or other disposition.

### ***Property Controls***

Property purchased with federal funds must be retained for the benefit of the federal program or project. Departments must implement effective control measures to ensure the protection of grant-funded equipment from loss, damage, and theft. Any loss, damage, or theft discovered during a site visit to a subrecipient or contractor that has purchased property under a federal award will be investigated and documented.

If equipment titled to the federal government suffers loss, damage, or theft, departments must notify the federal awarding agency immediately.

### ***Inventory Reporting***

County departments must inventory grant-funded equipment and reconcile inventory records with equipment records at least once every two years. If the reconciliation reveals differences in quantities of equipment, departments shall investigate the inventory and equipment records to discern the cause of the difference. Supplies purchased with financial assistance funds and valued at over \$5,000 in the aggregate must also be inventoried and accounted for.

### ***Intellectual Property***

Clackamas County may copyright any work under a financial assistance award. The County recognizes that federal agencies retain a royalty-free, non-exclusive, and irrevocable right to reproduce, publish or otherwise use the work for federal purposes and to authorize others to do so, for copyrighted work developed under a federal award.

## ▪ SUBRECIPIENT MONITORING

### ***Subrecipient Audits***

Federal subrecipient agreements issued by the County (using County-approved subrecipient boilerplates) require subrecipients to annually provide the County with their Single Audits, if applicable.

For new or existing subrecipients, audit information can be obtained by sending the subrecipient an Audit Certification form, found on [Finance's Alfresco Share site](#). The subrecipient will return the form by default to the Senior Compliance Specialist. The return address may be changed to a departmental contact if desired. Once completed, the form will provide basic financial information related to subrecipient audits (or lack thereof). The form also requests a copy of the subrecipient's Single Audit be sent to the County, where applicable. If the subrecipient has not had a Single Audit, the form requests the subrecipient provide basic information on the federal expenditures of the organization for the prior fiscal year. Additionally, if the organization has not had a Single Audit, departments should request a copy of the last financial audit conducted on the organization. For federal awards, Finance will also send a [questionnaire](#) developed especially for organizations that do not receive a Single or Financial Audit that requires potential subrecipients to provide basic details on their financial systems and capacity to handle federal grants.

Departments may choose to have the Senior Compliance Specialist in the Finance department collect this information from potential subrecipients. In either case, the Senior Compliance Specialist will review audit information collected from potential subrecipients and include information from this review in the Finance department's portion of the subrecipient risk assessment.

### ***Risk Assessment***

Maintenance of risk assessments on active subrecipient agreements is an integral part of the subrecipient monitoring process. Risk assessments are active during the entirety of the lifecycle of an award and are updated as necessary, making them "living" documents. Active, completed risk assessments are kept on [Finance's Alfresco Share site](#) and should be updated by those tasked with both fiscal and programmatic monitoring, as circumstances require. Each subrecipient agreement or amended agreement extending the award, requires a new or newly updated risk assessment.

The risk assessment template located on Finance's [Alfresco Share site](#) has been designed to assist in the assignment of monitoring levels based on a standardized scoring matrix. Higher scores may require special conditions be included in the subrecipient agreement—usually in the form of extra reporting or other monitoring. Monitoring levels are as follows:

Table 1. Subrecipient Monitoring levels derived from completed risk assessments

<b>Risk Score and Monitoring Matrix</b>	
<b>Low Risk</b>	Audit & Expenditure Review
<b>Medium Risk</b>	Audit Review, Expenditure Review & Desk Monitoring
<b>High Risk</b>	Audit Review, Expenditure Review & Onsite Monitoring
<b>Unacceptable Risk</b>	Do Not Award to Subrecipient

***Special Conditions and Audit Review***

Special conditions may be imposed on subrecipients in the federal subrecipient agreements issued by the County based on the level of risk assigned (2 CFR 200.205(b)) from the completed risk assessment. Issuing departments and the FAR Program will coordinate specific conditions language during the agreement development process.

Subrecipients that fall below the Single Audit threshold are still subject to subrecipient monitoring and all applicable federal, state and local laws, rules, and regulations.

***Extending Subrecipient Agreements***

Subrecipient agreements can be extended via amendment if the following conditions apply:

- ✓ The programmatic and fiscal requirements do not change with the amendment.
- ✓ The funding agency has not issued a new agreement to the County for the funds used in the subrecipient agreement.
- ✓ Allowed by Clackamas County budget rules and administrative approval procedures.

If the preceding conditions do not apply, a new subrecipient agreement should be issued.

***Post-award Monitoring Process***

The County will monitor all subrecipients of federal financial assistance, in accordance with the regulations mentioned above, using a risk-based approach to ensure federal funds have been spent in accordance with applicable laws and regulations. The County seeks to develop collaborative relationships with subrecipients through positive engagement, the sharing of expertise and technical assistance.

The Senior Compliance Specialist will collect independent financial review reports (audits, etc.) from existing subrecipients around 6 months after the end of the subrecipient’s fiscal year, and

make adjustments to the subrecipient's risk assessment based on a review of such reports, as necessary. The Senior Compliance Specialist will update issuing departments to any concerns in such reports requiring follow-up with the subrecipient.

### ***Reimbursement Claims***

Federal subrecipient reimbursement claims are submitted to issuing departments by the subrecipient. Departments perform the first review of reimbursement claims, checking for budget issues, overall rate of spending, and indirect/administrative claims. In cases where departments have been assigned a Finance Grant Accountant, the department will submit the claim to the FAR Program. The Senior Compliance Specialist will perform a secondary review of submitted claims and follow-up with the department if there are any issues. After any issues are resolved the claim may be submitted for payment.

### ***Award Closeout Requirements***

Departments are required to collect final programmatic reporting from federal subrecipients. The FAR Program will collect all final financial reporting from federal subrecipients. Departments are responsible for collecting all non-federal subrecipient reporting and to maintain these records in their grant files. Closeout requirements and submission dates should be clearly outlined in the subrecipient agreement. County department staff should seek feedback from subrecipients on completed programs and should incorporate such feedback into future program designs, as applicable.

### ***Exceptions***

Payments for goods and services to contractors using federal funds generally are not subject to audit or other monitoring activities under the Single Audit Act. The County's responsibility for contractors is to ensure the procurement, receipt and payment for goods and services comply with laws, regulations and the provisions of contracts or grant agreements.

#### **▪ PROTECTED PERSONALLY IDENTIFIABLE INFORMATION (PROTECTED PII)**

The County is committed to protecting the personally identifiable information of its customers. It is the responsibility of County departments to take reasonable measures to safeguard Protected PII (as defined in this manual) and any other information an awarding agency may designate as sensitive, or which state law treats as sensitive. Departments should redact Protected PII from backup sent to Finance in the course of requesting financial transactions (payment vouchers, pcard receipts, etc). If a question arises as to whether information should be redacted, departments are encouraged to contact their awarding agency for consultation.

#### **▪ COST SHARING (MATCH)**

Generally, any contributions received under a financial assistance-funded project, including and in-kind contributions, will be accepted as part of the County's cost sharing or matching requirement so long as they:

- ✓ are posted to PeopleSoft,
- ✓ are necessary and reasonable,
- ✓ are allowable,
- ✓ and, for federal financial assistance :
  - are not paid by the federal government under another award except where designated for cost sharing or matching,
  - are noted in the approved budget required by the federal awarding agency,
  - do not count as contributions for other federally-assisted projects.

▪ **SITUATIONS REQUIRING PRIOR APPROVAL FROM THE FEDERAL AWARDING AGENCY**

Understanding those situations requiring prior approval from the federal awarding agency will save time and money. Costs incurred by the County that required, but did not receive, prior approval from the federal awarding agency may not be reimbursed if challenged during a site visit or an audit. [2 CFR Part 200 Section 200.308](#) covers prior approvals in detail. The award terms and conditions should be consulted for items explicitly requiring prior approval. Generally, prior approval from the federal awarding agency is required in the following situations:

- ✓ revision of the scope or objective of the project
- ✓ changes in key personnel
- ✓ project director or principal investigator absent from project for more than 3 months or has reduced time devoted to project by 25%
- ✓ to incur certain types of costs
- ✓ transfers among direct cost categories that exceed 10% of the total approved budget in instances where the agency's share exceeds the Simplified Acquisition Threshold (current set at \$150,000 at the time of this writing)
- ✓ to subcontract or subgrant some of the activities of the project central to the financial assistance award
- ✓ changes in the amount of approved cost sharing or matching provided by the federal award recipient
- ✓ budget revisions requiring the need for additional funds need to extend the period of availability of funds

▪ **REPORTING**

Grant awards typically require a fair amount of reporting with varying levels of detail. For federal awards, sections [200.327](#) and [200.328](#) under 2 CFR Part 200 gives detailed guidance on federal reporting requirements for financial assistance administration. Generally, grant reporting requires two types of reports: progress reports and financial reports. Refer to the guidance provided with your financial assistance award for specifics on frequency and types of reporting requirements. All reports must be filed on time. Late reporting jeopardizes the County's status as a recipient of financial assistance funds and puts continued funding at risk.

## ***Progress Reports***

Progress reports compare actual accomplishments with the objectives stated for the reporting period, including an explanation why goals may not have been met, cost overruns or high unit costs, and any additional pertinent information. Progress reports are the responsibility of the recipient department. Departments are responsible for preparing program reports and Program Managers are responsible for reviewing and approving reports prior to filing. Any financial data must be obtained from the FAR Program.

## ***Financial Status Reports (FSRs) & Federal Financial Reports (FFRs)***

The FAR Program will file all Federal Financial Reports (FFRs) unless other arrangements have been made with the Deputy Finance Director. The FAR Program will follow closely the guidance provided by the awarding agency when filing required FFRs. Both FFRs and non-federal financial status reports must be filed using PeopleSoft line item queries, from inception to the end of the reporting period. Queries should include financial assistance revenues, expenditures, match, program income, etc., as applicable. Queries should be compared to the funding agency-approved budget to ensure allowability. Any transactions found to be unallowed or not approved for the budget should be moved by journal entry to another funding source. The amount reported to the funding agency should be the net of all transactions less items to be removed via journal entry. If journal entries cannot be made prior to submission of the report, the report must include only those items allowable and the journal entry must be completed in a timely manner. Review and approval, prior to filing, should be obtained:

- For federal awards, from the Director of Finance, Deputy Director of Finance, or designee.
- For non-federal awards, at the department level from department fiscal managers or directors.

Reports should be signed, dated and filed with the PeopleSoft query and all other supporting documentation. The preferred method of storage is electronically (per 200.335), however, paper copies are acceptable. For non-federal awards, these records would be kept at the department level and for federal awards, in the Finance FAR Office. These records must be made available to County auditors or awarding agency officials during site visits or as requested.

## **E. CLOSEOUT**

### **▪ FINAL PHASE**

The final stage in the financial assistance lifecycle is financial assistance closeout. This phase begins when either the program period of performance has expired or the County draws down its entire award. If County is nearing the end of its program term but has not yet expended its entire grant award, it is often possible to seek a “no-cost” extension from the awarding agency. “No-cost” extension means the award period is extended but no additional funding is provided.

## ***Final Reports***

Final programmatic and financial reports for non-federal grants are the responsibility of the department. Due to typical federal certification language as well as audit implications, financial reports for federally-funded financial assistance must be reviewed and approved by the Finance Controller.

## ***Federal Actions at Closeout***

2 CFR Part 200 Sections [200.343 thru 200.345](#) give detailed guidance on grant closeout activities on federal awards. Generally, the federal awarding agency will request and review the following items within 90 days after the expiration of the financial assistance award:

- ✓ Work plan and progress reports
- ✓ Financial Status Reports
- ✓ Requests for payments
- ✓ Compliance with matching requirements
- ✓ Federally-owned property records
- ✓ Equipment and Residual Supplies inventories

As the federal awarding agency conducts its review, it can still discover and collect payments for disallowed costs and other deficits in the administration of the funded program.

Other awarding agencies have varying requirements for closeout. Refer to your award terms and conditions for detailed explanations.

### **▪ RECORD RETENTION**

Record retention requirements for federal award recipients appear in the *Record Retention and Access* section of 2 CFR Part 200 Sections [200.333 thru 200.337](#). The general rule for record retention is the records must be retained for three years from the date of submission of the final expenditure report. However, various federal and non-federal funding agencies may have different requirements and departments should consult their award documents for specific requirements. Departments should work with the County Records office to maintain and dispose of their financial assistance award records.

## ***Exceptions***

- For records related to litigation, claims or audits started before the expiration of the three year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action is taken.
- For real property and equipment, records must be retained for three years from the date of final disposition of the property.

- For program income received after the period of performance, departments receiving federal awards must retain such records for three years after the end of the County's fiscal year during which the program income was earned. For example, if a department concludes its period of performance in 2015, but earns program income in 2017, then it must maintain those program income records for 3 years after the end of 2017.



## VI. APPENDICES

### ▪ APPENDIX A: SAMPLE SAM CHECK

SAM Search Results	
List of records matching your search for :	
Search Term :	<input type="text"/>
Record Status: Active	
ENTITY	<input type="text"/> Status:Active
DUNS: 959059759 +4:	CAGE Code: 48JS6 DoDAAC:
Expiration Date: Jan 20, 2016 Has Active Exclusion?: No Delinquent Federal Debt?: No	
Address: 256 WARNER MILNE RD	
City: OREGON CITY	State/Province: OREGON
ZIP Code: 97045-4014	Country: UNITED STATES

November 10, 2015 5:16 PM

Page 1 of 1

Note: the date at the bottom of the query is important for documentation purposes, as checks must be run prior to the issuance of an award. Keep this documentation in your award files. Run a check ([www.sam.gov](http://www.sam.gov)) on a given entity each time it receives new funding. Required by law for federal awards, often required on state awards, best practice for all other awards.

■ **APPENDIX B: FINANCIAL ASSISTANCE APPLICATION LIFECYCLE FORM (FIRST PAGE ONLY)**

**Financial Assistance Applicant Lifecycle Form**

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

**\*\* CONCEPTION \*\***

Note: The processes outlined in this form are not applicable to disaster recovery grants.

**Section I: Funding Opportunity Information - To be completed by Requester**

Lead Department: \_\_\_\_\_

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

**If renewal, complete sections 1, 2, & 4 only**  
**If Disaster or Emergency Relief Funding, EOC will need to approve prior to being sent to the BCC**

Name of Funding Opportunity: \_\_\_\_\_

Funding Source: Federal  State  Local

Requestor Information (Name of staff person initiating form): \_\_\_\_\_

Requestor Contact Information: \_\_\_\_\_

Department Fiscal Representative: \_\_\_\_\_

Program Name or Number (please specify): \_\_\_\_\_

Brief Description of Project:

Name of Funding Agency: \_\_\_\_\_

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

**OR**

Application Packet Attached:  Yes  No

Completed By: \_\_\_\_\_

Date

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

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

Competitive Application

Non-Competing Application

Other

CFDA[s], if applicable: \_\_\_\_\_

Funding Agency Award Notification Date: \_\_\_\_\_

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

Announcement/Opportunity #: \_\_\_\_\_

Grant Category/Title: \_\_\_\_\_

Max Award Value: \_\_\_\_\_

Allows Indirect/Rate: \_\_\_\_\_

Match Requirement: \_\_\_\_\_

Application Deadline: \_\_\_\_\_

Other Deadlines: \_\_\_\_\_

Award Start Date: \_\_\_\_\_

Other Deadline Description: \_\_\_\_\_

Award End Date: \_\_\_\_\_

Program Income Requirement: \_\_\_\_\_

Completed By: \_\_\_\_\_

Pre-Application Meeting Schedule: \_\_\_\_\_

■ APPENDIX C: CHARTFIELD REQUEST FORM ([DOWNLOAD ORIGINAL HERE](#))



COMPLETE WHITE BOXES ONLY

COUNTY FINANCE  
CHARTFIELD REQUEST FORM

NAME OF REQUESTOR:		DEPT NAME & FUND #	DATE OF REQUEST:
CHARTFIELD ACTION REQUEST: <input type="checkbox"/> Activate <input type="checkbox"/> Rename <input type="checkbox"/> Inactivate <input type="checkbox"/>		CHECK ONE OF THE BELOW:	BUSINESS UNIT: PHONE #:
IF REQUEST IS DUE TO AN OUTSIDE FINANCIAL ASSISTANCE AGREEMENT, INDICATE SOURCE <input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/>		If Federal, please provide CFDA #:	

PURPOSE OR REASON FOR YOUR REQUEST:	
IF FINANCIAL ASSISTANCE, INDICATE AWARD NUMBER:	
SUGGESTED DESCRIPTION: (MAX 30 Characters):	

CHECK ONE:

SUGGESTED NUMBER \*OPTIONAL\*

EFFECTIVE DATES			
Start Date:		End Date:	

INDICATE ANY CHARTFIELD STRINGS YOU WOULD LIKE SET UP FOR THE ABOVE NEW NUMBER:									
Fund	Dept	Program	Account	Project	Fund	Dept	Program	Account	Project

AUTHORIZATION	DATE
DEPARTMENT APPROVAL:	

FOR FINANCE DEPARTMENT USE ONLY				
GRANTS OFFICE APPROVAL:				
ACCOUNTING OFFICE APPROVAL:				
<table border="1"> <tr> <td>PROCESSED BY</td> <td>DATE</td> </tr> </table>		PROCESSED BY	DATE	Completion Notification to:  _____ Requestor _____ Budget/BRASS _____ Grant Accountant, if applicable
PROCESSED BY	DATE			

■ APPENDIX D: INTERFUND BILLING FORM (OBTAIN FORM FROM FINANCE)



PAYABLE TO:  
CLACKAMAS COUNTY

2051 KAEN ROAD  
OREGON CITY, OR 97045  
(503) 742-5400

**PLEASE REFERENCE INVOICE NUMBER ON PAYMENT**

NAME:	_____	INVOICE #	_____
ADDRESS:	_____	DATE:	_____
	_____	DATE DUE:	_____
EMAIL:	_____	BUDGET YR:	_____

DESCRIPTION OF CHARGES	AMOUNT
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
INVOICE TOTAL:	_____ \$ 0.00

Dept Contact: \_\_\_\_\_

INTERNAL COUNTY USE ONLY

REVENUE DISTRIBUTION					
FUND	DEPT	PROGRAM	ACCOUNT	PROJECT/GRANT	AMOUNT
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
Revenue Distribution Subtotal Pg 1					\$ 0.00
Revenue Distribution Subtotal Pg 2					\$ 0.00
Total Revenue Distribution					\$ 0.00

EXPENSE DISTRIBUTION					
FUND	DEPT	PROGRAM	ACCOUNT	PROJECT/GRANT	AMOUNT
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
Expense Distribution Subtotal Pg 1					\$ 0.00
Expense Distribution Subtotal Pg 2					\$ 0.00
Total Expense Distribution					\$ 0.00

Budget Authority \_\_\_\_\_

**IF YOU REQUIRE ADDITIONAL REVENUE OR EXPENSE LINES, PLEASE USE PAGE 2**

Doc #	_____	Date	_____	Initials	_____
Cash Rec	_____	Date Rec	_____	Initials	_____

▪ **APPENDIX E: DEPARTMENTAL CHECK & CASH LOG** ([DOWNLOAD ORIGINAL HERE](#))

<b>PREPARED BY:</b>	<b>DEPARTMENT:</b>	<b>DATE RECEIVED:</b>	
		<b>DATE DEPOSITED:</b>	
<b>TO: FINANCE</b>			
<b>CHECK FROM:</b>	<b>AMOUNT:</b>	<b>CHARTFIELD</b>	<b>A/R or G/R Billing #, if applicable</b>
Total:	\$0.00		
<b>CASH FROM:</b>	<b>AMOUNT:</b>		<b>Signature(s) [two required per Treasury policy]</b>
Total:	\$0.00		
<b>Worksheet Total</b>	<b>\$0.00</b>	<b>Deposit Received by [Finance]:</b>	

This form required if revenue is grant-related. All grant revenue must be sent to Finance for processing.

▪ **APPENDIX F: CERTIFICATE OF TIME ATTENDANCE ([DOWNLOAD ORIGINAL HERE](#))**

**To Be Printed on Department Letterhead**

**(Must be completed no less than every six months or at close-out of award, whichever is sooner)**

**To: The Finance Department - FAR Program**

**Certification of Time and Attendance**

Employee  
Name: \_\_\_\_\_

Employee  
Title: \_\_\_\_\_

Department/Division: \_\_\_\_\_  
\_\_\_\_\_

Time Period: \_\_\_\_\_

I certify that 100% my time was spent performing the following duties for the financial assistance award identified below.

Description of duties performed for the federal program:  
\_\_\_\_\_


Award Number: \_\_\_\_\_

County Finance Chartfield:  
\_\_\_\_\_

\_\_\_\_\_  
Employee Signature Date

\_\_\_\_\_  
Supervisor Signature Date

■ APPENDIX G: SUBRECIPIENT VS. CONTRACTOR DETERMINATION CHECKLIST ([DOWNLOAD ORIGINAL HERE](#))



**Clackamas County**  
Subrecipient/ Contractor Determination Checklist

*Has Clackamas County been designated by the awarding entity as a contractor on this funding?*

*If yes, **STOP** --your issuance is a **subcontract**, **not** a subrecipient agreement.*

Contract Name:	Contract #:
Contract Period:	Award Period:
Funding Agency:	CFDA #:

*Characteristics indicative of a subrecipient:* CHOOSE ONE

1) Entity determines who is eligible to receive entity's services.	Yes or No
--	-----------

If the answer to question 1 is YES; STOP HERE. The entity is a subrecipient.

2) Entity performance is measured against Federal program objectives, fulfills the mission of the Federal grant.	Yes or No
3) Entity has responsibility for programmatic decision making; designing and implementing the program within the parameters of	Yes or No
4) Entity has direct responsibility to adhere to applicable Federal program compliance requirements.	Yes or No
5) Entity uses the Federal funds to carry out a program provided by the entity as compared to providing goods or services for a program of the County.	Yes or No

*Characteristics indicative of a contractor:*

1) Entity provides the goods and services within entity's normal business operations.	Yes or No
2) Entity provides similar goods or services to many different purchasers.	Yes or No
3) Entity operates in a competitive environment; similar to that of private industry.	Yes or No
4) Entity provides goods or services that support the County's operation of the Federal program.	Yes or No
5) Entity is not subject to compliance requirements of the Federal program. The County is responsible for these.	Yes or No

Determination:
Subrecipient / Contractor

**Brief narrative justifying determination:**

---



---



---

**Panel Members:**

---



---



---



---



---

Program Manager (or responsible party) Signature: \_\_\_\_\_

Date

Department/Division Manager Signature: \_\_\_\_\_

Date

▪ **APPENDIX H: PROPERTY RECORDS CHECKLIST**

<b>Asset Number</b>	
<b>Ownership (Feds or Grantee)</b>	
<b>Original Award Number</b>	
<b>Follow-on Award Number (If applicable)</b>	
<b>Description</b>	
<b>Source/Vendor</b>	
<b>Financial Transaction Number (if available)</b>	
<b>ID#</b>	
<b>Date Acquired</b>	
<b>Cost per Unit</b>	
<b>% of Federal Ownership</b>	
<b>Last Reported Location</b>	
<b>Last Reported Condition</b>	
<b>Last Reported Use</b>	
<b>Date of Last Report</b>	
<b>Disposed (Y/N)</b>	
<b>If Y, Date of Disposal</b>	
<b>Disposal Sales Price</b>	



▪ **APPENDIX I: COUNTY RECORDING COVER PAGE**



## **BOARD ORDER/AGENDA ITEM**

**BEFORE THE BOARD OF COUNTY COMMISSIONS**

---

**DATE EXECUTED:**

---

**PURPOSE (BRIEF DESCRIPTION):**

---

**RETURN TO:** *(IF LEFT BLANK COPY WILL BE SCANNED AND RECYCLED)*

■ **APPENDIX J: DISCLOSURE OF REAL OR POTENTIAL CONFLICT OF INTEREST FORM – GRANT ISSUANCE**



**DISCLOSURE OF REAL OR POTENTIAL CONFLICT OF INTEREST FORM  
Financial Assistance (“Grant”) Issuance and Management**

Clackamas County employees may not use or attempt to use their positions to gain financial benefit or to avoid a financial loss for themselves, a relative, a member of their household, or their business if the opportunity is available only because of the position held by the employee. Reference the Conflict of Interest Policy: Grant Management and Issuance for further details.

Information of County employee with Real or Potential Conflict:

Employee Name:		Department:	
Supervisor’s Name:		Division:	

**Please develop a document and answer each of the below questions. It is important to provide as much information as possible to fully consider if there is a potential or real conflict.**

1. Provide the name, address, and contact information of the individual and/or company with which a real or potential conflict of interest may exist.
2. Describe the relationship of the individual or company to the County employee.
3. Describe the proposed grant or the grant-funded, non-contract purchase benefitting the individual or company. Describe the potential grant or compensation and duration of the relationship.
4. Is there a financial gain or loss or other non-financial benefit that will be realized by the individual or company?  
 Yes, Describe  
 No
5. Is there a financial gain or loss or other non-financial benefit that will be realized by the County employee?
6. How did the individual or company find out about the grant opportunity or the proposed grant-funded goods/services?
7. How was the individual or company selected?
8. Were other individuals or companies considered for the proposed grant or grant-funded transaction?  
 Yes, explain why the individual or company with the real or potential conflict of interest was selected:  
 No, please explain why:
9. Are other individuals or companies able to perform the proposed activity?  Yes  No  
 If No, please explain why:
10. Describe any other information or factors that should be considered.

**Upon completion submit to the Senior Compliance Specialist at [mwestbrook@clackamas.us](mailto:mwestbrook@clackamas.us). If it is determined there is no potential or real conflict of interest, the approved form serves as the final determination. If there is a potential or real conflict of interest, a mitigation plan or further documentation must be developed and approved.**

- No potential or real conflict of interest.  
 Yes – Restriction on contracting or a mitigation plan is approved.

\_\_\_\_\_  
 Senior Compliance Specialist | Date

▪ **APPENDIX K: SELECTED ITEMS OF COST**

2 CFR Part 200 Sections 200.420 thru 200.475 titled *General Provisions for Selected Items of Cost* provide principles to be applied in establishing the allowability of certain items of cost. These principles apply whether a cost is treated as direct or indirect. Failure to mention a particular item of cost is not intended to imply it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost. In case of a discrepancy between the provisions of a specific Federal award and the provisions below, the Federal award governs.

**General Provisions for Selected Items of Cost**

200.420 Considerations for selected items of cost.	200.446 Idle facilities and idle capacity.
200.421 Advertising and public relations.	200.447 Insurance and indemnification.
200.422 Advisory councils.	200.448 Intellectual property.
200.423 Alcoholic beverages.	200.449 Interest.
200.424 Alumni/ae activities.	200.450 Lobbying.
200.425 Audit services.	200.451 Losses on other awards or contracts.
200.426 Bad debts.	200.452 Maintenance and repair costs.
200.427 Bonding costs.	200.453 Materials and supplies costs, including costs of computing devices.
200.428 Collections of improper payments.	200.454 Memberships, subscriptions, and professional activity costs.
200.429 Commencement and convocation costs.	200.455 Organization costs.
200.430 Compensation—personal services.	200.456 Participant support costs.
200.431 Compensation—fringe benefits.	200.457 Plant and security costs.
200.432 Conferences.	200.458 Pre-award costs.
200.433 Contingency provisions.	200.459 Professional service costs.
200.434 Contributions and donations.	200.460 Proposal costs.
200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.	200.461 Publication and printing costs.
200.436 Depreciation.	200.462 Rearrangement and reconversion costs.
200.437 Employee health and welfare costs.	200.463 Recruiting costs.
200.438 Entertainment costs.	200.464 Relocation costs of employees.
200.439 Equipment and other capital expenditures.	200.465 Rental costs of real property and equipment.
200.440 Exchange rates.	200.466 Scholarships and student aid costs.
200.441 Fines, penalties, damages and other settlements.	200.467 Selling and marketing costs.
200.442 Fund raising and investment management costs.	200.468 Specialized service facilities.
200.443 Gains and losses on disposition of depreciable assets.	200.469 Student activity costs.
200.444 General costs of government.	200.470 Taxes (including Value Added Tax).
200.445 Goods or services for personal use.	200.471 Termination costs.
	200.472 Training and education costs.
	200.473 Transportation costs.

**§200.420 Considerations for selected items of cost.**

This section provides principles to be applied in establishing the allowability of certain items involved in determining cost, in addition to the requirements of Subtitle II. Basic Considerations of this subpart. These principles apply whether or not a particular item of cost is properly treated as direct cost or indirect (F&A) cost. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost, and based on the principles described in §§200.402 Composition of costs through 200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs. In case of a discrepancy between the provisions of a specific federal award and the provisions below, the federal award governs. Criteria outlined in §200.403 Factors affecting allowability of *costs* must be applied in determining allowability. See also §200.102 Exceptions.

**§200.421 Advertising and public relations.**

(a) The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television, direct mail, exhibits, electronic or computer transmittals, and the like.

(b) The only allowable advertising costs are those which are solely for:

(1) The recruitment of personnel required by the non-federal entity for performance of a federal award (See also §200.463 Recruiting costs);

(2) The procurement of goods and services for the performance of a federal award;

(3) The disposal of scrap or surplus materials acquired in the performance of a federal award except when non-federal entities are reimbursed for disposal costs at a predetermined amount;  
or

(4) Program outreach and other specific purposes necessary to meet the requirements of the federal award.

(c) The term “public relations” includes community relations and means those activities dedicated to maintaining the image of the non-federal entity or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

(d) The only allowable public relations costs are:

(1) Costs specifically required by the federal award;

(2) Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of the federal award (these costs are considered necessary as part of the outreach effort for the federal award); or

(3) Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of funding opportunities, financial matters, etc.

(e) Unallowable advertising and public relations costs include the following:

(1) All advertising and public relations costs other than as specified in paragraphs (b) and (d) of this section;

(2) Costs of meetings, conventions, convocations, or other events related to other activities of the entity (see also §200.432 Conferences), including:

(i) Costs of displays, demonstrations, and exhibits;

(ii) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and

(iii) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;

(3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs;

(4) Costs of advertising and public relations designed solely to promote the non-federal entity.

#### **§200.422 Advisory councils.**

Costs incurred by advisory councils or committees are unallowable unless authorized by statute, the federal awarding agency or as an indirect cost where allocable to federal awards. See §200.444 General costs of government, applicable to states, local governments and Indian tribes.

#### **§200.423 Alcoholic beverages.**

Costs of alcoholic beverages are unallowable.

#### **§200.424 Alumni/ae activities.**

Costs incurred by IHEs for, or in support of, alumni/ae activities are unallowable.

#### **§200.425 Audit services.**

(a) A reasonably proportionate share of the costs of audits required by, and performed in accordance with, the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as

implemented by requirements of this part, are allowable. However, the following audit costs are unallowable:

(1) Any costs when audits required by the Single Audit Act and Subpart F—Audit Requirements of this part have not been conducted or have been conducted but not in accordance therewith; and

(2) Any costs of auditing a non-federal entity that is exempted from having an audit conducted under the Single Audit Act and Subpart F—Audit Requirements of this part because its expenditures under federal awards are less than \$750,000 during the non-federal entity's fiscal year.

(b) The costs of a financial statement audit of a non-federal entity that does not currently have a federal award may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.

(c) Pass-through entities may charge federal awards for the cost of agreed-upon-procedures engagements to monitor subrecipients (in accordance with Subpart D—Post Federal Award Requirements of this part, §§200.330 Subrecipient and contractor determinations through 200.332 Fixed Amount Subawards) who are exempted from the requirements of the Single Audit Act and Subpart F—Audit Requirements of this part. This cost is allowable only if the agreed-upon-procedures engagements are:

(1) Conducted in accordance with GAGAS attestation standards;

(2) Paid for and arranged by the pass-through entity; and

(3) Limited in scope to one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; and reporting.

#### **§200.426 Bad debts.**

Bad debts (debts which have been determined to be uncollectable), including losses (whether actual or estimated) arising from uncollectable accounts and other claims, are unallowable. Related collection costs, and related legal costs, arising from such debts after they have been determined to be uncollectable are also unallowable. See also §200.428 Collections of improper payments.

#### **§200.427 Bonding costs.**

(a) Bonding costs arise when the federal awarding agency requires assurance against financial loss to itself or others by reason of the act or default of the non-federal entity. They arise also in instances where the non-federal entity requires similar assurance, including: bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds for employees and officials.

(b) Costs of bonding required pursuant to the terms and conditions of the federal award are allowable.

(c) Costs of bonding required by the non-federal entity in the general conduct of its operations are allowable as an indirect cost to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

#### **§200.428 Collections of improper payments.**

The costs incurred by a non-federal entity to recover improper payments are allowable as either direct or indirect costs, as appropriate. Amounts collected may be used by the non-federal entity in accordance with cash management standards set forth in §200.305 *Payment*.

#### **§200.429 Commencement and convocation costs.**

For IHEs, costs incurred for commencements and convocations are unallowable, except as provided for in Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs), paragraph (B)(9) Student Administration and Services, as student activity costs.

#### **§200.430 Compensation—personal services.**

(a) *General.* Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in §200.431 Compensation—fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees:

- (1) Is reasonable for the services rendered and conforms to the established written policy of the non-federal entity consistently applied to both federal and non-federal activities;
- (2) Follows an appointment made in accordance with a non-federal entity's laws and/or rules or written policies and meets the requirements of federal statute, where applicable; and
- (3) Is determined and supported as provided in paragraph (i) of this section, Standards for Documentation of Personnel Expenses, when applicable.

(b) *Reasonableness.* Compensation for employees engaged in work on federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-federal entity. In cases where the kinds of employees required for federal awards are not found in the other activities of the non-federal entity, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the non-federal entity competes for the kind of employees involved.

(c) *Professional activities outside the non-federal entity.* Unless an arrangement is specifically authorized by a federal awarding agency, a non-federal entity must follow its written non-federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-federal entity for non-organizational compensation. Where such non-federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the federal government may require that the effort of professional staff working on federal awards be allocated between:

(1) Non-federal entity activities, and

(2) Non-organizational professional activities. If the federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

(d) *Unallowable costs.* (1) Costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensation.

(2) The allowable compensation for certain employees is subject to a ceiling in accordance with statute. For the amount of the ceiling for cost-reimbursement contracts, the covered compensation subject to the ceiling, the covered employees, and other relevant provisions, see 10 U.S.C. 2324(e)(1)(P), and 41 U.S.C. 1127 and 4304(a)(16). For other types of federal awards, other statutory ceilings may apply.

(e) *Special considerations.* Special considerations in determining allowability of compensation will be given to any change in a non-federal entity's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in federal policy.

(f) *Incentive compensation.* Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the non-federal entity and the employees before the services were rendered, or pursuant to an established plan followed by the non-federal entity so consistently as to imply, in effect, an agreement to make such payment.

(g) *Nonprofit organizations.* For compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs. This may include directors and executive committee member's fees, incentive awards, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost-of-living differentials.



(h) *Institutions of higher education (IHEs)*. (1) Certain conditions require special consideration and possible limitations in determining allowable personnel compensation costs under federal awards. Among such conditions are the following:

(i) Allowable activities. Charges to federal awards may include reasonable amounts for activities contributing and directly related to work under an agreement, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animals, etc.), managing substances/chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences.

(ii) Incidental activities. Incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary) need not be included in the records described in paragraph (h)(9) of this section to directly charge payments of incidental activities, such activities must either be specifically provided for in the federal award budget or receive prior written approval by the federal awarding agency.

(2) *Salary basis*. Charges for work performed on federal awards by faculty members during the academic year are allowable at the IBS rate. Except as noted in paragraph (h)(1)(ii) of this section, in no event will charges to federal awards, irrespective of the basis of computation, exceed the proportionate share of the IBS for that period. This principle applies to all members of faculty at an institution. IBS is defined as the annual compensation paid by an IHE for an individual's appointment, whether that individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income that an individual earns outside of duties performed for the IHE. Unless there is prior approval by the federal awarding agency, charges of a faculty member's salary to a federal award must not exceed the proportionate share of the IBS for the period during which the faculty member worked on the award.

(3) *Intra-Institution of Higher Education (IHE) consulting*. Intra-IHE consulting by faculty is assumed to be undertaken as an IHE obligation requiring no compensation in addition to IBS. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the faculty member is in addition to his or her regular responsibilities, any charges for such work representing additional compensation above IBS are allowable provided that such consulting arrangements are specifically provided for in the federal award or approved in writing by the federal awarding agency.

(4) Extra Service Pay normally represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Where extra service pay is a result of Intra-IHE consulting, it is subject to the same requirements of paragraph (b) above. It is allowable if all of the following conditions are met:

(i) The non-federal entity establishes consistent written policies which apply uniformly to all faculty members, not just those working on federal awards.

(ii) The non-federal entity establishes a consistent written definition of work covered by IBS which is specific enough to determine conclusively when work beyond that level has occurred. This may be described in appointment letters or other documentations.

(iii) The supplementation amount paid is commensurate with the IBS rate of pay and the amount of additional work performed. See paragraph (h)(2) of this section.

(iv) The salaries, as supplemented, fall within the salary structure and pay ranges established by and documented in writing or otherwise applicable to the non-federal entity.

(v) The total salaries charged to federal awards including extra service pay are subject to the Standards of Documentation as described in paragraph (i) of this section.

(5) *Periods outside the academic year.* (i) Except as specified for teaching activity in paragraph (h)(5)(ii) of this section, charges for work performed by faculty members on federal awards during periods not included in the base salary period will be at a rate not in excess of the IBS.

(ii) Charges for teaching activities performed by faculty members on federal awards during periods not included in IBS period will be based on the normal written policy of the IHE governing compensation to faculty members for teaching assignments during such periods.

(6) *Part-time faculty.* Charges for work performed on federal awards by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for part-time assignments.

(7) *Sabbatical leave costs.* Rules for sabbatical leave are as follow:

(i) Costs of leaves of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the IHE has a uniform written policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the IHE.

(ii) Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the IHE's actual experience under its sabbatical leave policy.

(8) *Salary rates for non-faculty members.* Non-faculty full-time professional personnel may also earn "extra service pay" in accordance with the non-federal entity's written policy and consistent with paragraph (h)(1)(i) of this section.

(i) *Standards for Documentation of Personnel Expenses* (1) Charges to federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

(i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(ii) Be incorporated into the official records of the non-federal entity;

(iii) Reasonably reflect the total activity for which the employee is compensated by the non-federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);

(iv) Encompass both federally assisted and all other activities compensated by the non-federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-federal entity's written policy;

(v) Comply with the established accounting policies and practices of the non-federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); and

(vi) [Reserved]

(vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one federal award; a federal award and non-federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

(viii) Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to federal awards, but may be used for interim accounting purposes, provided that:

(A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;

(B) Significant changes in the corresponding work activity (as defined by the non-federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and

(C) The non-federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the federal award is accurate, allowable, and properly allocated.

(ix) Because practices vary as to the activity constituting a full workload (for IHEs, IBS), records may reflect categories of activities expressed as a percentage distribution of total activities.

(x) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. When recording salaries and wages charged to federal

awards for IHEs, a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected.

(2) For records which meet the standards required in paragraph (i)(1) of this section, the non-federal entity will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section.

(3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from federal awards.

(5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, "rolling" time studies, case counts, or other quantifiable measures of work performed.

(i) Substitute systems which use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

(A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (i)(5)(iii) of this section;

(B) The entire time period involved must be covered by the sample; and

(C) The results must be statistically valid and applied to the period being sampled.

(ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(iii) Less than full compliance with the statistical sampling standards noted in subsection (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts to be allocated to federal awards will be minimal, or if it concludes that the system proposed by the non-federal entity will result in lower costs to federal awards than a system which complies with the standards.

(6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section.

(7) For federal awards of similar purpose activity or instances of approved blended funding, a non-federal entity may submit performance plans that incorporate funds from multiple federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved federal awarding agencies. In these instances, the non-federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.

(8) For a non-federal entity where the records do not meet the standards described in this section, the federal government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

### **§200.431 Compensation—fringe benefits.**

(a) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave (vacation, family-related, sick or military), employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law, non-federal entity-employee agreement, or an established policy of the non-federal entity.

(b) *Leave.* The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met:

(1) They are provided under established written leave policies;

(2) The costs are equitably allocated to all related activities, including federal awards; and,

(3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the non-federal entity or specified grouping of employees.

(i) When a non-federal entity uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable as indirect costs in the year of payment.

(ii) The accrual basis may be only used for those types of leave for which a liability as defined by GAAP exists when the leave is earned. When a non-federal entity uses the accrual basis of accounting, allowable leave costs are the lesser of the amount accrued or funded.

(c) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in §200.447 Insurance and indemnification); pension plan costs (see paragraph (i) of

this section); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits, must be allocated to federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such federal awards and other activities, and charged as direct or indirect costs in accordance with the non-federal entity's accounting practices.

(d) Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of entity-wide salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, unless the non-federal entity demonstrates that costs in relationship to salaries and wages do not differ significantly for different groups of employees.

(e) *Insurance*. See also §200.447 Insurance and indemnification, paragraphs (d)(1) and (2).

(1) Provisions for a reserve under a self-insurance program for unemployment compensation or workers' compensation are allowable to the extent that the provisions represent reasonable estimates of the liabilities for such compensation, and the types of coverage, extent of coverage, and rates and premiums would have been allowable had insurance been purchased to cover the risks. However, provisions for self-insured liabilities which do not become payable for more than one year after the provision is made must not exceed the present value of the liability.

(2) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The costs of such insurance when the non-federal entity is named as beneficiary are unallowable.

(3) Actual claims paid to or on behalf of employees or former employees for workers' compensation, unemployment compensation, severance pay, and similar employee benefits (e.g., post-retirement health benefits), are allowable in the year of payment provided that the non-federal entity follows a consistent costing policy and they are allocated as indirect costs.

(f) *Automobiles*. That portion of automobile costs furnished by the entity that relates to personal use by employees (including transportation to and from work) is unallowable as fringe benefit or indirect (F&A) costs regardless of whether the cost is reported as taxable income to the employees.

(g) *Pension Plan Costs*. Pension plan costs which are incurred in accordance with the established policies of the non-federal entity are allowable, provided that:

(1) Such policies meet the test of reasonableness.

(2) The methods of cost allocation are not discriminatory.

(3) For entities using accrual based accounting, the cost assigned to each fiscal year is determined in accordance with GAAP.

(4) The costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 calendar days after each quarter of the year to which such costs are assignable are unallowable. Non-federal entity may elect to follow the "Cost Accounting Standard for Composition and Measurement of Pension Costs" (48 CFR 9904.412).

(5) Pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act (ERISA) of 1974 (29 U.S.C. 1301-1461) are allowable. Late payment charges on such premiums are unallowable. Excise taxes on accumulated funding deficiencies and other penalties imposed under ERISA are unallowable.

(6) Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the non-federal entity.

(i) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(ii) Pension costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency for indirect costs) are allowable in the year funded. The cognizant agency for indirect costs may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the federal government and related federal reimbursement and the non-federal entity's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the federal government for the time value of federal reimbursements in excess of contributions to the pension fund.

(iii) Amounts funded by the non-federal entity in excess of the actuarially determined amount for a fiscal year may be used as the non-federal entity's contribution in future periods.

(iv) When a non-federal entity converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion is allowable if amortized over a period of years in accordance with GAAP.

(v) The federal government must receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the non-federal entity in the form of a refund, withdrawal, or other credit.

(h) *Post-Retirement Health*. Post-retirement health plans (PRHP) refers to costs of health insurance or health services not included in a pension plan covered by paragraph (g) of this section for retirees and their spouses, dependents, and survivors. PRHP costs may be computed

using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the non-federal entity.

(1) For PRHP financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) PRHP costs calculated using an actuarial cost method recognized by GAAP are allowable if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The federal cognizant agency for indirect costs may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the federal government and related federal reimbursements and the non-federal entity's contributions to the PRHP fund. Adjustments may be made by cash refund, reduction in current year's PRHP costs, or other equitable procedures to compensate the federal government for the time value of federal reimbursements in excess of contributions to the PRHP fund.

(3) Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the federal government's contribution in a future period.

(4) When a non-federal entity converts to an acceptable actuarial cost method and funds PRHP costs in accordance with this method, the initial unfunded liability attributable to prior years is allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the cognizant agency for indirect costs.

(5) To be allowable in the current year, the PRHP costs must be paid either to:

(i) An insurer or other benefit provider as current year costs or premiums, or

(ii) An insurer or trustee to maintain a trust fund or reserve for the sole purpose of providing post-retirement benefits to retirees and other beneficiaries.

(6) The federal government must receive an equitable share of any amounts of previously allowed post-retirement benefit costs (including earnings thereon) which revert or inure to the entity in the form of a refund, withdrawal, or other credit.

(i) *Severance Pay.* (1) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by non-federal entities to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by (a) law, (b) employer-employee agreement, (c) established policy that constitutes, in effect, an implied agreement on the non-federal entity's part, or (d) circumstances of the particular employment.

(2) Costs of severance payments are divided into two categories as follows:

(i) Actual normal turnover severance payments must be allocated to all activities; or, where the non-federal entity provides for a reserve for normal severances, such method will be acceptable



if the charge to current operations is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts charged are allocated to all activities of the non-federal entity.

(ii) Measurement of costs of abnormal or mass severance pay by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the federal government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Prior approval by the federal awarding agency or cognizant agency for indirect cost, as appropriate, is required.

(3) Costs incurred in certain severance pay packages which are in an amount in excess of the normal severance pay paid by the non-federal entity to an employee upon termination of employment and are paid to the employee contingent upon a change in management control over, or ownership of, the non-federal entity's assets, are unallowable.

(4) Severance payments to foreign nationals employed by the non-federal entity outside the United States, to the extent that the amount exceeds the customary or prevailing practices for the non-federal entity in the United States, are unallowable, unless they are necessary for the performance of federal programs and approved by the federal awarding agency.

(5) Severance payments to foreign nationals employed by the non-federal entity outside the United States due to the termination of the foreign national as a result of the closing of, or curtailment of activities by, the non-federal entity in that country, are unallowable, unless they are necessary for the performance of federal programs and approved by the federal awarding agency.

(j)(1) *For IHEs only.* Fringe benefits in the form of tuition or remission of tuition for individual employees are allowable, provided such benefits are granted in accordance with established non-federal entity policies, and are distributed to all non-federal entity activities on an equitable basis. Tuition benefits for family members other than the employee are unallowable.

(2) Fringe benefits in the form of tuition or remission of tuition for individual employees not employed by IHEs are limited to the tax-free amount allowed per section 127 of the Internal Revenue Code as amended.

(3) IHEs may offer employees tuition waivers or tuition reductions for undergraduate education under IRC Section 117(d) as amended, provided that the benefit does not discriminate in favor of highly compensated employees. Federal reimbursement of tuition or remission of tuition is also limited to the institution for which the employee works. See §200.466 Scholarships and student aid costs, for treatment of tuition remission provided to students.

(k) For IHEs whose costs are paid by state or local governments, fringe benefit programs (such as pension costs and FICA) and any other benefits costs specifically incurred on behalf of, and in direct benefit to, the non-federal entity, are allowable costs of such non-federal entities whether

or not these costs are recorded in the accounting records of the non-federal entities, subject to the following:

- (1) The costs meet the requirements of Basic Considerations in §§200.402 Composition of costs through 200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs of this subpart;
- (2) The costs are properly supported by approved cost allocation plans in accordance with applicable federal cost accounting principles; and
- (3) The costs are not otherwise borne directly or indirectly by the federal government.

### **§200.432 Conferences.**

A conference is defined as a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-federal entity and is necessary and reasonable for successful performance under the federal award. Allowable conference costs paid by the non-federal entity as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the federal award. As needed, the costs of identifying, but not providing, locally available dependent-care resources are allowable. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the federal award. The federal awarding agency may authorize exceptions where appropriate for programs including Indian tribes, children, and the elderly. See also §§200.438 Entertainment costs, 200.456 Participant support costs, 200.474 Travel costs, and 200.475 Trustees.

### **§200.433 Contingency provisions.**

(a) Contingency is that part of a budget estimate of future costs (typically of large construction projects, IT systems, or other items as approved by the federal awarding agency) which is associated with possible events or conditions arising from causes the precise outcome of which is indeterminable at the time of estimate, and that experience shows will likely result, in aggregate, in additional costs for the approved activity or project. Amounts for major project scope changes, unforeseen risks, or extraordinary events may not be included.

(b) It is permissible for contingency amounts other than those excluded in paragraph (b)(1) of this section to be explicitly included in budget estimates, to the extent they are necessary to improve the precision of those estimates. Amounts must be estimated using broadly-accepted cost estimating methodologies, specified in the budget documentation of the federal award, and accepted by the federal awarding agency. As such, contingency amounts are to be included in the federal award. In order for actual costs incurred to be allowable, they must comply with the cost principles and other requirements in this part (see also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of Subpart D of this part and

200.403 Factors affecting allowability of costs); be necessary and reasonable for proper and efficient accomplishment of project or program objectives, and be verifiable from the non-federal entity's records.

(c) Payments made by the federal awarding agency to the non-federal entity's "contingency reserve" or any similar payment made for events the occurrence of which cannot be foretold with certainty as to the time or intensity, or with an assurance of their happening, are unallowable, except as noted in §§200.431 Compensation—fringe benefits regarding self-insurance, pensions, severance and post-retirement health costs and 200.447 Insurance and indemnification.

**§200.434 Contributions and donations.**

(a) Costs of contributions and donations, including cash, property, and services, from the non-federal entity to other entities, are unallowable.

(b) The value of services and property donated to the non-federal entity may not be charged to the federal award either as a direct or indirect (F&A) cost. The value of donated services and property may be used to meet cost sharing or matching requirements (see §200.306 Cost sharing or matching). Depreciation on donated assets is permitted in accordance with §200.436 Depreciation, as long as the donated property is not counted towards cost sharing or matching requirements.

(c) Services donated or volunteered to the non-federal entity may be furnished to a non-federal entity by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not allowable either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of §200.306 Cost sharing or matching.

(d) To the extent feasible, services donated to the non-federal entity will be supported by the same methods used to support the allocability of regular personnel services.

(e) The following provisions apply to nonprofit organizations. The value of services donated to the nonprofit organization utilized in the performance of a direct cost activity must be considered in the determination of the non-federal entity's indirect cost rate(s) and, accordingly, must be allocated a proportionate share of applicable indirect costs when the following circumstances exist:

(1) The aggregate value of the services is material;

(2) The services are supported by a significant amount of the indirect costs incurred by the non-federal entity;

(i) In those instances where there is no basis for determining the fair market value of the services rendered, the non-federal entity and the cognizant agency for indirect costs must negotiate an appropriate allocation of indirect cost to the services.

(ii) Where donated services directly benefit a project supported by the federal award, the indirect costs allocated to the services will be considered as a part of the total costs of the project. Such indirect costs may be reimbursed under the federal award or used to meet cost sharing or matching requirements.

(f) Fair market value of donated services must be computed as described in §200.306 Cost sharing or matching.

(g) Personal Property and Use of Space.

(1) Donated personal property and use of space may be furnished to a non-federal entity. The value of the personal property and space is not reimbursable either as a direct or indirect cost.

(2) The value of the donations may be used to meet cost sharing or matching share requirements under the conditions described in §§200.300 Statutory and national policy requirements through 200.309 Period of performance of subpart D of this part. The value of the donations must be determined in accordance with §§200.300 Statutory and national policy requirements through 200.309 Period of performance. Where donations are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

**§200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.**

(a) Definitions for the purposes of this section.

(1) *Conviction* means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon verdict or a plea, including a conviction due to a plea of nolo contendere.

(2) *Costs* include the services of in-house or private counsel, accountants, consultants, or others engaged to assist the non-federal entity before, during, and after commencement of a judicial or administrative proceeding, that bear a direct relationship to the proceeding.

(3) *Fraud* means:

(i) Acts of fraud or corruption or attempts to defraud the federal government or to corrupt its agents,

(ii) Acts that constitute a cause for debarment or suspension (as specified in agency regulations), and

(iii) Acts which violate the False Claims Act (31 U.S.C. 3729-3732) or the Anti-kickback Act (41 U.S.C. 1320a-7b(b)).

(4) *Penalty* does not include restitution, reimbursement, or compensatory damages.

(5) *Proceeding* includes an investigation.

(b) *Costs.* (1) Except as otherwise described herein, costs incurred in connection with any criminal, civil or administrative proceeding (including filing of a false certification) commenced by the federal government, a state, local government, or foreign government, or joined by the federal government (including a proceeding under the False Claims Act), against the non-federal entity, (or commenced by third parties or a current or former employee of the non-federal entity who submits a whistleblower complaint of reprisal in accordance with 10 U.S.C. 2409 or 41 U.S.C. 4712), are not allowable if the proceeding:

(i) Relates to a violation of, or failure to comply with, a federal, state, local or foreign statute, regulation or the terms and conditions of the federal award, by the non-federal entity (including its agents and employees); and

(ii) Results in any of the following dispositions:

(A) In a criminal proceeding, a conviction.

(B) In a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of non-federal entity liability.

(C) In the case of any civil or administrative proceeding, the disallowance of costs or the imposition of a monetary penalty, or an order issued by the federal awarding agency head or delegate to the non-federal entity to take corrective action under 10 U.S.C. 2409 or 41 U.S.C. 4712.

(D) A final decision by an appropriate federal official to debar or suspend the non-federal entity, to rescind or void a federal award, or to terminate a federal award for default by reason of a violation or failure to comply with a statute, regulation, or the terms and conditions of the federal award.

(E) A disposition by consent or compromise, if the action could have resulted in any of the dispositions described in paragraphs (b)(1)(ii)(A) through (D) of this section.

(2) If more than one proceeding involves the same alleged misconduct, the costs of all such proceedings are unallowable if any results in one of the dispositions shown in paragraph (b) of this section.

(c) If a proceeding referred to in paragraph (b) of this section is commenced by the federal government and is resolved by consent or compromise pursuant to an agreement by the non-federal entity and the federal government, then the costs incurred may be allowed to the extent specifically provided in such agreement.

(d) If a proceeding referred to in paragraph (b) of this section is commenced by a state, local or foreign government, the authorized federal official may allow the costs incurred if such authorized official determines that the costs were incurred as a result of:

(1) A specific term or condition of the federal award, or

(2) Specific written direction of an authorized official of the federal awarding agency.

(e) Costs incurred in connection with proceedings described in paragraph (b) of this section, which are not made unallowable by that subsection, may be allowed but only to the extent that:

(1) The costs are reasonable and necessary in relation to the administration of the federal award and activities required to deal with the proceeding and the underlying cause of action;

(2) Payment of the reasonable, necessary, allocable and otherwise allowable costs incurred is not prohibited by any other provision(s) of the federal award;

(3) The costs are not recovered from the Federal Government or a third party, either directly as a result of the proceeding or otherwise; and,

(4) An authorized federal official must determine the percentage of costs allowed considering the complexity of litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States, and such other factors as may be appropriate. Such percentage must not exceed 80 percent. However, if an agreement reached under paragraph (c) of this section has explicitly considered this 80 percent limitation and permitted a higher percentage, then the full amount of costs resulting from that agreement are allowable.

(f) Costs incurred by the non-federal entity in connection with the defense of suits brought by its employees or ex-employees under section 2 of the Major Fraud Act of 1988 (18 U.S.C. 1031), including the cost of all relief necessary to make such employee whole, where the non-federal entity was found liable or settled, are unallowable.

(g) Costs of prosecution of claims against the federal government, including appeals of final federal agency decisions, are unallowable.

(h) Costs of legal, accounting, and consultant services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the federal award.

(i) Costs which may be unallowable under this section, including directly associated costs, must be segregated and accounted for separately. During the pendency of any proceeding covered by paragraphs (b) and (f) of this section, the federal government must generally withhold payment of such costs. However, if in its best interests, the federal government may provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreement to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

### **§200.436 Depreciation.**

(a) Depreciation is the method for allocating the cost of fixed assets to periods benefitting from asset use. The non-federal entity may be compensated for the use of its buildings, capital improvements, equipment, and software projects capitalized in accordance with GAAP, provided that they are used, needed in the non-federal entity's activities, and properly allocated to federal awards. Such compensation must be made by computing depreciation.

(b) The allocation for depreciation must be made in accordance with Appendices IV through VIII.

(c) Depreciation is computed applying the following rules. The computation of depreciation must be based on the acquisition cost of the assets involved. For an asset donated to the non-federal entity by a third party, its fair market value at the time of the donation must be considered as the acquisition cost. Such assets may be depreciated or claimed as matching but not both. For this purpose, the acquisition cost will exclude:

(1) The cost of land;

(2) Any portion of the cost of buildings and equipment borne by or donated by the federal government, irrespective of where title was originally vested or where it is presently located;

(3) Any portion of the cost of buildings and equipment contributed by or for the non-federal entity, or where law or agreement prohibits recovery; and

(4) Any asset acquired solely for the performance of a non-federal award.

(d) When computing depreciation charges, the following must be observed:

(1) The period of useful service or useful life established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment, technological developments in the particular area, historical data, and the renewal and replacement policies followed for the individual items or classes of assets involved.

(2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods must reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method must be presumed to be the appropriate method. Depreciation methods once used may not be changed unless approved in advance by the cognizant agency. The depreciation methods used to calculate the depreciation amounts for indirect (F&A) rate purposes must be the same methods used by the non-federal entity for its financial statements.

(3) The entire building, including the shell and all components, may be treated as a single asset and depreciated over a single useful life. A building may also be divided into multiple components. Each component item may then be depreciated over its estimated useful life. The building components must be grouped into three general components of a building: building shell (including construction and design costs), building services systems (e.g., elevators, HVAC, plumbing system and heating and air-conditioning system) and fixed equipment (e.g., sterilizers,

casework, fume hoods, cold rooms and glassware/washers). In exceptional cases, a cognizant agency may authorize a non-federal entity to use more than these three groupings. When a non-federal entity elects to depreciate its buildings by its components, the same depreciation methods must be used for indirect (F&A) purposes and financial statements purposes, as described in paragraphs (d)(1) and (2) of this section.

(4) No depreciation may be allowed on any assets that have outlived their depreciable lives.

(5) Where the depreciation method is introduced to replace the use allowance method, depreciation must be computed as if the asset had been depreciated over its entire life (i.e., from the date the asset was acquired and ready for use to the date of disposal or withdrawal from service). The total amount of use allowance and depreciation for an asset (including imputed depreciation applicable to periods prior to the conversion from the use allowance method as well as depreciation after the conversion) may not exceed the total acquisition cost of the asset.

(e) Charges for depreciation must be supported by adequate property records, and physical inventories must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed. Statistical sampling techniques may be used in taking these inventories. In addition, adequate depreciation records showing the amount of depreciation taken each period must also be maintained.

#### **§200.437 Employee health and welfare costs.**

(a) Costs incurred in accordance with the non-federal entity's documented policies for the improvement of working conditions, employer-employee relations, employee health, and employee performance are allowable.

(b) Such costs will be equitably apportioned to all activities of the non-federal entity. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably sent to employee welfare organizations.

(c) Losses resulting from operating food services are allowable only if the non-federal entity's objective is to operate such services on a break-even basis. Losses sustained because of operating objectives other than the above are allowable only:

(1) Where the non-federal entity can demonstrate unusual circumstances; and

(2) With the approval of the cognizant agency for indirect costs.

#### **§200.438 Entertainment costs.**

Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the federal award or with prior written approval of the federal awarding agency.



### **§200.439 Equipment and other capital expenditures.**

(a) See §§200.13 Capital expenditures, 200.33 Equipment, 200.89 Special purpose equipment, 200.48 General purpose equipment, 200.2 Acquisition cost, and 200.12 Capital assets.

(b) The following rules of allowability must apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the federal awarding agency or pass-through entity.

(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5,000 or more have the prior written approval of the federal awarding agency or pass-through entity.

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the federal awarding agency, or pass-through entity. See §200.436 Depreciation, for rules on the allowability of depreciation on buildings, capital improvements, and equipment. See also §200.465 Rental costs of real property and equipment.

(4) When approved as a direct charge pursuant to paragraphs (b)(1) through (3) of this section, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate and negotiated with the federal awarding agency.

(5) The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the federal cognizant agency for indirect cost.

(6) Cost of equipment disposal. If the non-federal entity is instructed by the federal awarding agency to otherwise dispose of or transfer the equipment the costs of such disposal or transfer are allowable.

### **§200.440 Exchange rates.**

(a) Cost increases for fluctuations in exchange rates are allowable costs subject to the availability of funding, and prior approval by the federal awarding agency. The federal awarding agency must however ensure that adequate funds are available to cover currency fluctuations in order to avoid a violation of the Anti-Deficiency Act.

(b) The non-federal entity is required to make reviews of local currency gains to determine the need for additional federal funding before the expiration date of the federal award. Subsequent adjustments for currency increases may be allowable only when the non-federal entity provides the federal awarding agency with adequate source documentation from a commonly used source

in effect at the time the expense was made, and to the extent that sufficient federal funds are available.

**§200.441 Fines, penalties, damages and other settlements.**

Costs resulting from non-federal entity violations of, alleged violations of, or failure to comply with, federal, state, tribal, local or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the federal award, or with prior written approval of the federal awarding agency. See also §200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

**§200.442 Fund raising and investment management costs.**

(a) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fund raising costs for the purposes of meeting the federal program objectives are allowable with prior written approval from the federal awarding agency. Proposal costs are covered in §200.460 Proposal costs.

(b) Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable except when associated with investments covering pension, self-insurance, or other funds which include federal participation allowed by this part.

(c) Costs related to the physical custody and control of monies and securities are allowable.

(d) Both allowable and unallowable fund raising and investment activities must be allocated as an appropriate share of indirect costs under the conditions described in §200.413 Direct costs.

**§200.443 Gains and losses on disposition of depreciable assets.**

(a) Gains and losses on the sale, retirement, or other disposition of depreciable property must be included in the year in which they occur as credits or charges to the asset cost grouping(s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost grouping(s) is the difference between the amount realized on the property and the undepreciated basis of the property.

(b) Gains and losses from the disposition of depreciable property must not be recognized as a separate credit or charge under the following conditions:

(1) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under §200.436 Depreciation and 200.439 Equipment and other capital expenditures.

(2) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(3) A loss results from the failure to maintain permissible insurance, except as otherwise provided in §46\*200.447 Insurance and indemnification.

(4) Compensation for the use of the property was provided through use allowances in lieu of depreciation.

(5) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions must be considered on a case-by-case basis.

(c) Gains or losses of any nature arising from the sale or exchange of property other than the property covered in paragraph (a) of this section, e.g., land, must be excluded in computing federal award costs.

(d) When assets acquired with federal funds, in part or wholly, are disposed of, the distribution of the proceeds must be made in accordance with §§200.310 Insurance Coverage through 200.316 Property trust relationship.

#### **§200.444 General costs of government.**

(a) For states, local governments, and Indian Tribes, the general costs of government are unallowable (except as provided in §200.474 Travel costs). Unallowable costs include:

(1) Salaries and expenses of the Office of the Governor of a state or the chief executive of a local government or the chief executive of an Indian tribe;

(2) Salaries and other expenses of a state legislature, tribal council, or similar local governmental body, such as a County supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction;

(3) Costs of the judicial branch of a government;

(4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in §200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements); and

(5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.

(b) For Indian tribes and Councils Of Governments (COGs) (see §200.64 Local government), the portion of salaries and expenses directly attributable to managing and operating federal programs by the chief executive and his or her staff is allowable. Up to 50% of these costs can be included in the indirect cost calculation without documentation.

#### **§200.445 Goods or services for personal use.**

(a) Costs of goods or services for personal use of the non-federal entity's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.

(b) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses are only allowable as direct costs regardless of whether reported as taxable income to the employees. In addition, to be allowable direct costs must be approved in advance by a federal awarding agency.

**§200.446 Idle facilities and idle capacity.**

(a) As used in this section the following terms have the meanings set forth in this section:

(1) Facilities means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the non-federal entity.

(2) Idle facilities means completely unused facilities that are excess to the non-federal entity's current needs.

(3) Idle capacity means the unused capacity of partially used facilities. It is the difference between:

(i) That which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and;

(ii) The extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved.

(4) Cost of idle facilities or idle capacity means costs such as maintenance, repair, housing, rent, and other related costs, e.g., insurance, interest, and depreciation. These costs could include the costs of idle public safety emergency facilities, telecommunications, or information technology system capacity that is built to withstand major fluctuations in load, e.g., consolidated data centers.

(b) The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet workload requirements which may fluctuate and are allocated appropriately to all benefiting programs; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subsection, costs of idle facilities are

allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary to carry out the purpose of the federal award or was originally reasonable and is not subject to reduction or elimination by use on other federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be considered idle facilities.

#### **§200.447 Insurance and indemnification.**

(a) Costs of insurance required or approved and maintained, pursuant to the federal award, are allowable.

(b) Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) Types and extent and cost of coverage are in accordance with the non-federal entity's policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, federal government property are unallowable except to the extent that the federal awarding agency has specifically required or approved such costs.

(3) Costs allowed for business interruption or other similar insurance must exclude coverage of management fees.

(4) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (see §200.431 Compensation—fringe benefits). The cost of such insurance when the non-federal entity is identified as the beneficiary is unallowable.

(5) Insurance against defects. Costs of insurance with respect to any costs incurred to correct defects in the non-federal entity's materials or workmanship are unallowable.

(6) Medical liability (malpractice) insurance. Medical liability insurance is an allowable cost of federal research programs only to the extent that the federal research programs involve human subjects or training of participants in research techniques. Medical liability insurance costs must be treated as a direct cost and must be assigned to individual projects based on the manner in which the insurer allocates the risk to the population covered by the insurance.

(c) Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, unless expressly provided for in the federal award. However, costs incurred because of losses not covered under nominal deductible

insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

(d) Contributions to a reserve for certain self-insurance programs including workers' compensation, unemployment compensation, and severance pay are allowable subject to the following provisions:

(1) The type of coverage and the extent of coverage and the rates and premiums would have been allowed had insurance (including reinsurance) been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, must not exceed the discounted present value of the liability. The rate used for discounting the liability must be determined by giving consideration to such factors as the non-federal entity's settlement rate for those liabilities and its investment rate of return.

(2) Earnings or investment income on reserves must be credited to those reserves.

(3)(i) Contributions to reserves must be based on sound actuarial principles using historical experience and reasonable assumptions. Reserve levels must be analyzed and updated at least biennially for each major risk being insured and take into account any reinsurance, coinsurance, etc. Reserve levels related to employee-related coverages will normally be limited to the value of claims:

(A) Submitted and adjudicated but not paid;

(B) Submitted but not adjudicated; and

(C) Incurred but not submitted.

(ii) Reserve levels in excess of the amounts based on the above must be identified and justified in the cost allocation plan or indirect cost rate proposal.

(4) Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to types of insured risk and losses generated by the various insured activities or agencies of the non-federal entity. If individual departments or agencies of the non-federal entity experience significantly different levels of claims for a particular risk, those differences are to be recognized by the use of separate allocations or other techniques resulting in an equitable allocation.

(5) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund or unrestricted account), refunds must be made to the federal government for its share of funds transferred, including earned or imputed interest from the date of transfer and debt interest, if applicable, chargeable in accordance with applicable federal cognizant agency for indirect cost, claims collection regulations.

(e) Insurance refunds must be credited against insurance costs in the year the refund is received.

(f) Indemnification includes securing the non-federal entity against liabilities to third persons and other losses not compensated by insurance or otherwise. The federal government is obligated to indemnify the non-federal entity only to the extent expressly provided for in the federal award, except as provided in paragraph (c) of this section.

**§200.448 Intellectual property.**

(a) *Patent costs.* (1) The following costs related to securing patents and copyrights are allowable:

(i) Costs of preparing disclosures, reports, and other documents required by the federal award, and of searching the art to the extent necessary to make such disclosures;

(ii) Costs of preparing documents and any other patent costs in connection with the filing and prosecution of a United States patent application where title or royalty-free license is required by the federal government to be conveyed to the federal government; and

(iii) General counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee intellectual property agreements (See also §200.459 Professional service costs).

(2) The following costs related to securing patents and copyrights are unallowable:

(i) Costs of preparing disclosures, reports, and other documents, and of searching the art to make disclosures not required by the federal award;

(ii) Costs in connection with filing and prosecuting any foreign patent application, or any United States patent application, where the federal award does not require conveying title or a royalty-free license to the federal government.

(b) *Royalties and other costs for use of patents and copyrights.* (1) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the federal award are allowable unless:

(i) The federal government already has a license or the right to free use of the patent or copyright.

(ii) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid.

(iii) The patent or copyright is considered to be unenforceable.

(iv) The patent or copyright is expired.

(2) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less-than-arm's-length bargaining, such as:

- (i) Royalties paid to persons, including corporations, affiliated with the non-federal entity.
  - (ii) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a federal award would be made.
  - (iii) Royalties paid under an agreement entered into after a federal award is made to a non-federal entity.
- (3) In any case involving a patent or copyright formerly owned by the non-federal entity, the amount of royalty allowed should not exceed the cost which would have been allowed had the non-federal entity retained title thereto.

**§200.449 Interest.**

(a) *General.* Costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the non-federal entity's own funds, however represented, are unallowable. Financing costs (including interest) to acquire, construct, or replace capital assets are allowable, subject to the conditions in this section.

(b)(1) Capital assets is defined as noted in §200.12 Capital assets. An asset cost includes (as applicable) acquisition costs, construction costs, and other costs capitalized in accordance with GAAP.

(2) For non-federal entity fiscal years beginning on or after January 1, 2016, intangible assets include patents and computer software. For software development projects, only interest attributable to the portion of the project costs capitalized in accordance with GAAP is allowable.

(c) *Conditions for all non-federal entities.* (1) The non-federal entity uses the capital assets in support of federal awards;

(2) The allowable asset costs to acquire facilities and equipment are limited to a fair market value available to the non-federal entity from an unrelated (arm's length) third party.

(3) The non-federal entity obtains the financing via an arm's-length transaction (that is, a transaction with an unrelated third party); or claims reimbursement of actual interest cost at a rate available via such a transaction.

(4) The non-federal entity limits claims for federal reimbursement of interest costs to the least expensive alternative. For example, a capital lease may be determined less costly than Procurement through debt financing, in which case reimbursement must be limited to the amount of interest determined if leasing had been used.

(5) The non-federal entity expenses or capitalizes allowable interest cost in accordance with GAAP.



(6) Earnings generated by the investment of borrowed funds pending their disbursement for the asset costs are used to offset the current period's allowable interest cost, whether that cost is expensed or capitalized. Earnings subject to being reported to the federal Internal Revenue Service under arbitrage requirements are excludable.

(7) The following conditions must apply to debt arrangements over \$1 million to purchase or construct facilities, unless the non-federal entity makes an initial equity contribution to the purchase of 25 percent or more. For this purpose, "initial equity contribution" means the amount or value of contributions made by the non-federal entity for the acquisition of facilities prior to occupancy.

(i) The non-federal entity must reduce claims for reimbursement of interest cost by an amount equal to imputed interest earnings on excess cash flow attributable to the portion of the facility used for federal awards.

(ii) The non-federal entity must impute interest on excess cash flow as follows:

(A) Annually, the non-federal entity must prepare a cumulative (from the inception of the project) report of monthly cash inflows and outflows, regardless of the funding source. For this purpose, inflows consist of federal reimbursement for depreciation, amortization of capitalized construction interest, and annual interest cost. Outflows consist of initial equity contributions, debt principal payments (less the pro-rata share attributable to the cost of land), and interest payments.

(B) To compute monthly cash inflows and outflows, the non-federal entity must divide the annual amounts determined in step (i) by the number of months in the year (usually 12) that the building is in service.

(C) For any month in which cumulative cash inflows exceed cumulative outflows, interest must be calculated on the excess inflows for that month and be treated as a reduction to allowable interest cost. The rate of interest to be used must be the three-month Treasury bill closing rate as of the last business day of that month.

(8) Interest attributable to a fully depreciated asset is unallowable.

(d) Additional conditions for states, local governments and Indian tribes. For costs to be allowable, the non-federal entity must have incurred the interest costs for buildings after October 1, 1980, or for land and equipment after September 1, 1995.

(1) The requirement to offset interest earned on borrowed funds against current allowable interest cost (paragraph (c)(5), above) also applies to earnings on debt service reserve funds.

(2) The non-federal entity will negotiate the amount of allowable interest cost related to the acquisition of facilities with asset costs of \$1 million or more, as outlined in paragraph (c)(7) of this section. For this purpose, a non-federal entity must consider only cash inflows and outflows attributable to that portion of the real property used for federal awards.

(e) Additional conditions for IHEs. For costs to be allowable, the IHE must have incurred the interest costs after September 23, 1982, in connection with acquisitions of capital assets that occurred after that date.

(f) Additional condition for nonprofit organizations. For costs to be allowable, the nonprofit organization incurred the interest costs after September 29, 1995, in connection with acquisitions of capital assets that occurred after that date.

(g) The interest allowability provisions of this section do not apply to a nonprofit organization subject to “full coverage” under the Cost Accounting Standards (CAS), as defined at 48 CFR 9903.201-2(a). The non-federal entity's federal awards are instead subject to CAS 414 (48 CFR 9904.414), “Cost of Money as an Element of the Cost of Facilities Capital”, and CAS 417 (48 CFR 9904.417), “Cost of Money as an Element of the Cost of Capital Assets Under Construction”.

#### **§200.450 Lobbying.**

(a) The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans is governed by relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common rule, “New Restrictions on Lobbying” published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget “Governmentwide Guidance for New Restrictions on Lobbying” and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996).

(b) Executive lobbying costs. Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the executive branch of the federal government to give consideration or to act regarding a federal award or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a federal employee or officer to give consideration or to act regarding a federal award or regulatory matter on any basis other than the merits of the matter.

(c) In addition to the above, the following restrictions are applicable to nonprofit organizations and IHEs:

(1) Costs associated with the following activities are unallowable:

(i) Attempts to influence the outcomes of any federal, state, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity;

(ii) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections in the United States;

(iii) Any attempt to influence:

(A) The introduction of federal or state legislation;

(B) The enactment or modification of any pending federal or state legislation through communication with any member or employee of the Congress or state legislature (including efforts to influence state or local officials to engage in similar lobbying activity);

(C) The enactment or modification of any pending federal or state legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public, or any segment thereof, to contribute to or participate in any mass demonstration, march, rally, fund raising drive, lobbying campaign or letter writing or telephone campaign; or

(D) Any government official or employee in connection with a decision to sign or veto enrolled legislation;

(iv) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

(2) The following activities are excepted from the coverage of paragraph (c)(1) of this section:

(i) Technical and factual presentations on topics directly related to the performance of a grant, contract, or other agreement (through hearing testimony, statements, or letters to the Congress or a state legislature, or subdivision, member, or cognizant staff member thereof), in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the non-federal entity's member of congress, legislative body or a subdivision, or a cognizant staff member thereof, provided such information is readily obtainable and can be readily put in deliverable form, and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearings;

(ii) Any lobbying made unallowable by paragraph (c)(1)(iii) of this section to influence state legislation in order to directly reduce the cost, or to avoid material impairment of the non-federal entity's authority to perform the grant, contract, or other agreement; or

(iii) Any activity specifically authorized by statute to be undertaken with funds from the federal award.

(iv) Any activity excepted from the definitions of "lobbying" or "influencing legislation" by the Internal Revenue Code provisions that require nonprofit organizations to limit their participation in direct and "grass roots" lobbying activities in order to retain their charitable deduction status and avoid punitive excise taxes, I.R.C. §§501(c)(3), 501(h), 4911(a), including:

(A) Nonpartisan analysis, study, or research reports;

(B) Examinations and discussions of broad social, economic, and similar problems; and

(C) Information provided upon request by a legislator for technical advice and assistance, as defined by I.R.C. §4911(d)(2) and 26 CFR 56.4911-2(c)(1)-(c)(3).

(v) When a non-federal entity seeks reimbursement for indirect (F&A) costs, total lobbying costs must be separately identified in the indirect (F&A) cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of §200.413 Direct costs.

(vi) The non-federal entity must submit as part of its annual indirect (F&A) cost rate proposal a certification that the requirements and standards of this section have been complied with. (See also §200.415 Required certifications.)

(vii)(A) Time logs, calendars, or similar records are not required to be created for purposes of complying with the record keeping requirements in §200.302 Financial management with respect to lobbying costs during any particular calendar month when:

(1) The employee engages in lobbying (as defined in paragraphs (c)(1) and (c)(2) of this section) 25 percent or less of the employee's compensated hours of employment during that calendar month; and

(2) Within the preceding five-year period, the non-federal entity has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs.

(B) When conditions in paragraph (c)(2)(vii)(A)(1) and (2) of this section are met, non-federal entities are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions in paragraphs (c)(2)(vii)(A)(1) and (2) of this section are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

(viii) The federal awarding agency must establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of this section. Any such advance resolutions must be binding in any subsequent settlements, audits, or investigations with respect to that grant or contract for purposes of interpretation of this part, provided, however, that this must not be construed to prevent a contractor or non-federal entity from contesting the lawfulness of such a determination.

#### **§200.451 Losses on other awards or contracts.**

Any excess of costs over income under any other award or contract of any nature is unallowable. This includes, but is not limited to, the non-federal entity's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect (F&A) costs. Also, any excess of costs over authorized funding levels transferred from any award or contract to another award or contract is unallowable. All losses are not allowable indirect

(F&A) costs and are required to be included in the appropriate indirect cost rate base for allocation of indirect costs.

**§200.452 Maintenance and repair costs.**

Costs incurred for utilities, insurance, security, necessary maintenance, janitorial services, repair, or upkeep of buildings and equipment (including federal property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life must be treated as capital expenditures (see §200.439 Equipment and other capital expenditures). These costs are only allowable to the extent not paid through rental or other agreements.

**§200.453 Materials and supplies costs, including costs of computing devices.**

(a) Costs incurred for materials, supplies, and fabricated parts necessary to carry out a federal award are allowable.

(b) Purchased materials and supplies must be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms should be charged at their actual net cost under any recognized method of pricing inventory withdrawals, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs.

(c) Materials and supplies used for the performance of a federal award may be charged as direct costs. In the specific case of computing devices, charging as direct costs is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of a federal award.

(d) Where federally-donated or furnished materials are used in performing the federal award, such materials will be used without charge.

**§200.454 Memberships, subscriptions, and professional activity costs.**

(a) Costs of the non-federal entity's membership in business, technical, and professional organizations are allowable.

(b) Costs of the non-federal entity's subscriptions to business, professional, and technical periodicals are allowable.

(c) Costs of membership in any civic or community organization are allowable with prior approval by the federal awarding agency or pass-through entity.

(d) Costs of membership in any country club or social or dining club or organization are unallowable.

(e) Costs of membership in organizations whose primary purpose is lobbying are unallowable. See also §200.450 Lobbying.

**§200.455 Organization costs.**

Costs such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselor, whether or not employees of the non-federal entity in connection with establishment or reorganization of an organization, are unallowable except with prior approval of the federal awarding agency.

**§200.456 Participant support costs.**

Participant support costs as defined in §200.75 Participant support costs are allowable with the prior approval of the federal awarding agency.

**§200.457 Plant and security costs.**

Necessary and reasonable expenses incurred for routine and security to protect facilities, personnel, and work products are allowable. Such costs include, but are not limited to, wages and uniforms of personnel engaged in security activities; equipment; barriers; protective (non-military) gear, devices, and equipment; contractual security services; and consultants. Capital expenditures for plant security purposes are subject to §200.439 Equipment and other capital expenditures.

**§200.458 Pre-award costs.**

Pre-award costs are those incurred prior to the effective date of the federal award directly pursuant to the negotiation and in anticipation of the federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the federal award and only with the written approval of the federal awarding agency.

**§200.459 Professional service costs.**

(a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the non-federal entity, are allowable, subject to paragraphs (b) and (c) when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the federal government. In addition, legal and related services are limited under §200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

(b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:

(1) The nature and scope of the service rendered in relation to the service required.

(2) The necessity of contracting for the service, considering the non-federal entity's capability in the particular area.

(3) The past pattern of such costs, particularly in the years prior to federal awards.

(4) The impact of federal awards on the non-federal entity's business (i.e., what new problems have arisen).

(5) Whether the proportion of federal work to the non-federal entity's total business is such as to influence the non-federal entity in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under federal awards.

(6) Whether the service can be performed more economically by direct employment rather than contracting.

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-federally funded activities.

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

(c) In addition to the factors in paragraph (b) of this section, to be allowable, retainer fees must be supported by evidence of bona fide services available or rendered.

#### **§200.460 Proposal costs.**

Proposal costs are the costs of preparing bids, proposals, or applications on potential federal and non-federal awards or projects, including the development of data necessary to support the non-federal entity's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect (F&A) costs and allocated currently to all activities of the non-federal entity. No proposal costs of past accounting periods will be allocable to the current period.

#### **§200.461 Publication and printing costs.**

(a) Publication costs for electronic and print media, including distribution, promotion, and general handling are allowable. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the non-federal entity.

(b) Page charges for professional journal publications are allowable where:

(1) The publications report work supported by the federal government; and

(2) The charges are levied impartially on all items published by the journal, whether or not under a federal award.

(3) The non-federal entity may charge the federal award before closeout for the costs of publication or sharing of research results if the costs are not incurred during the period of performance of the federal award.

**§200.462 Rearrangement and reconversion costs.**

(a) Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable as indirect costs. Special arrangements and alterations costs incurred specifically for a federal award are allowable as a direct cost with the prior approval of the federal awarding agency or pass-through entity.

(b) Costs incurred in the restoration or rehabilitation of the non-federal entity's facilities to approximately the same condition existing immediately prior to commencement of federal awards, less costs related to normal wear and tear, are allowable.

**§200.463 Recruiting costs.**

(a) Subject to paragraphs (b) and (c) of this section, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to the non-federal entity's standard recruitment program. Where the non-federal entity uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) Special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel that do not meet the test of reasonableness or do not conform with the established practices of the non-federal entity, are unallowable.

(c) Where relocation costs incurred incident to recruitment of a new employee have been funded in whole or in part as a direct cost to a federal award, and the newly hired employee resigns for reasons within the employee's control within 12 months after hire, the non-federal entity will be required to refund or credit the federal share of such relocation costs to the federal government. See also §200.464 Relocation costs of employees.

(d) Short-term, travel visa costs (as opposed to longer-term, immigration visas) are generally allowable expenses that may be proposed as a direct cost. Since short-term visas are issued for a specific period and purpose, they can be clearly identified as directly connected to work performed on a federal award. For these costs to be directly charged to a federal award, they must:

(1) Be critical and necessary for the conduct of the project;

(2) Be allowable under the applicable cost principles;



- (3) Be consistent with the non-federal entity's cost accounting practices and non-federal entity policy; and
- (4) Meet the definition of "direct cost" as described in the applicable cost principles.

**§200.464 Relocation costs of employees.**

(a) Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) of an existing employee or upon recruitment of a new employee. Relocation costs are allowable, subject to the limitations described in paragraphs (b), (c), and (d) of this section, provided that:

- (1) The move is for the benefit of the employer.
- (2) Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer.
- (3) The reimbursement does not exceed the employee's actual (or reasonably estimated) expenses.

(b) Allowable relocation costs for current employees are limited to the following:

- (1) The costs of transportation of the employee, members of his or her immediate family and his household, and personal effects to the new location.
- (2) The costs of finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period, up to maximum period of 30 calendar days.
- (3) Closing costs, such as brokerage, legal, and appraisal fees, incident to the disposition of the employee's former home. These costs, together with those described in (4), are limited to 8 per cent of the sales price of the employee's former home.
- (4) The continuing costs of ownership (for up to six months) of the vacant former home after the settlement or lease date of the employee's new permanent home, such as maintenance of buildings and grounds (exclusive of fixing-up expenses), utilities, taxes, and property insurance.
- (5) Other necessary and reasonable expenses normally incident to relocation, such as the costs of canceling an unexpired lease, transportation of personal property, and Procurement insurance against loss of or damages to personal property. The cost of canceling an unexpired lease is limited to three times the monthly rental.

(c) Allowable relocation costs for new employees are limited to those described in paragraphs (b)(1) and (2) of this section. When relocation costs incurred incident to the recruitment of new employees have been allowed either as a direct or indirect cost and the employee resigns for reasons within the employee's control within 12 months after hire, the non-federal entity must

refund or credit the federal government for its share of the cost. However, the costs of travel to an overseas location must be considered travel costs in accordance with §200.474 Travel costs, and not this §200.464 Relocation costs of employees, for the purpose of this paragraph if dependents are not permitted at the location for any reason and the costs do not include costs of transporting household goods.

(d) The following costs related to relocation are unallowable:

- (1) Fees and other costs associated with acquiring a new home.
- (2) A loss on the sale of a former home.
- (3) Continuing mortgage principal and interest payments on a home being sold.
- (4) Income taxes paid by an employee related to reimbursed relocation costs.

**§200.465 Rental costs of real property and equipment.**

(a) Subject to the limitations described in paragraphs (b) through (d) of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available.

(b) Rental costs under “sale and lease back” arrangements are allowable only up to the amount that would be allowed had the non-federal entity continued to own the property. This amount would include expenses such as depreciation, maintenance, taxes, and insurance.

(c) Rental costs under “less-than-arm's-length” leases are allowable only up to the amount (as explained in paragraph (b) of this section). For this purpose, a less-than-arm's-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between:

- (1) Divisions of the non-federal entity;
- (2) The non-federal entity under common control through common officers, directors, or members; and
- (3) The non-federal entity and a director, trustee, officer, or key employee of the non-federal entity or an immediate family member, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, the non-federal entity may establish a separate corporation for the sole purpose of owning property and leasing it back to the non-federal entity.

(4) Family members include one party with any of the following relationships to another party:

- (i) Spouse, and parents thereof;
- (ii) Children, and spouses thereof;
- (iii) Parents, and spouses thereof;
- (iv) Siblings, and spouses thereof;
- (v) Grandparents and grandchildren, and spouses thereof;
- (vi) Domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and
- (vii) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

(5) Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount (as explained in paragraph (b) of this section) that would be allowed had the non-federal entity purchased the property on the date the lease agreement was executed. The provisions of GAAP must be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in §200.449 Interest. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the non-federal entity purchased the property.

(6) The rental of any property owned by any individuals or entities affiliated with the non-federal entity, to include commercial or residential real estate, for purposes such as the home office workspace is unallowable.

#### **§200.466 Scholarships and student aid costs.**

(a) Costs of scholarships, fellowships, and other programs of student aid at IHEs are allowable only when the purpose of the federal award is to provide training to selected participants and the charge is approved by the federal awarding agency. However, tuition remission and other forms of compensation paid as, or in lieu of, wages to students performing necessary work are allowable provided that:

- (1) The individual is conducting activities necessary to the federal award;
- (2) Tuition remission and other support are provided in accordance with established policy of the IHE and consistently provided in a like manner to students in return for similar activities conducted under federal awards as well as other activities; and
- (3) During the academic period, the student is enrolled in an advanced degree program at a non-federal entity or affiliated institution and the activities of the student in relation to the federal award are related to the degree program;

(4) The tuition or other payments are reasonable compensation for the work performed and are conditioned explicitly upon the performance of necessary work; and

(5) It is the IHE's practice to similarly compensate students under federal awards as well as other activities.

(b) Charges for tuition remission and other forms of compensation paid to students as, or in lieu of, salaries and wages must be subject to the reporting requirements in §200.430 Compensation—personal services, and must be treated as direct or indirect cost in accordance with the actual work being performed. Tuition remission may be charged on an average rate basis. See also §200.431 Compensation—fringe benefits.

**§200.467 Selling and marketing costs.**

Costs of selling and marketing any products or services of the non-federal entity (unless allowed under §200.421 Advertising and public relations.) are unallowable, except as direct costs, with prior approval by the federal awarding agency when necessary for the performance of the federal award.

**§200.468 Specialized service facilities.**

(a) The costs of services provided by highly complex or specialized facilities operated by the non-federal entity, such as computing facilities, wind tunnels, and reactors are allowable, provided the charges for the services meet the conditions of either paragraphs (b) or (c) of this section, and, in addition, take into account any items of income or federal financing that qualify as applicable credits under §200.406 Applicable credits.

(b) The costs of such services, when material, must be charged directly to applicable awards based on actual usage of the services on the basis of a schedule of rates or established methodology that:

(1) Does not discriminate between activities under federal awards and other activities of the non-federal entity, including usage by the non-federal entity for internal purposes, and

(2) Is designed to recover only the aggregate costs of the services. The costs of each service must consist normally of both its direct costs and its allocable share of all indirect (F&A) costs. Rates must be adjusted at least biennially, and must take into consideration over/under applied costs of the previous period(s).

(c) Where the costs incurred for a service are not material, they may be allocated as indirect (F&A) costs.

(d) Under some extraordinary circumstances, where it is in the best interest of the federal government and the non-federal entity to establish alternative costing arrangements, such arrangements may be worked out with the federal cognizant agency for indirect costs.

#### **§200.469 Student activity costs.**

Costs incurred for intramural activities, student publications, student clubs, and other student activities, are unallowable, unless specifically provided for in the federal award.

#### **§200.470 Taxes (including Value Added Tax).**

(a) For states, local governments and Indian tribes:

(1) Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect federal programs or changes in tax policies that disproportionately affect federal programs.

(2) Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the federal government are allowable.

(3) This provision does not restrict the authority of the federal awarding agency to identify taxes where federal participation is inappropriate. Where the identification of the amount of unallowable taxes would require an inordinate amount of effort, the cognizant agency for indirect costs may accept a reasonable approximation thereof.

(b) For nonprofit organizations and IHEs:

(1) In general, taxes which the non-federal entity is required to pay and which are paid or accrued in accordance with GAAP, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for:

(i) Taxes from which exemptions are available to the non-federal entity directly or which are available to the non-federal entity based on an exemption afforded the federal government and, in the latter case, when the federal awarding agency makes available the necessary exemption certificates,

(ii) Special assessments on land which represent capital improvements, and

(iii) Federal income taxes.

(2) Any refund of taxes, and any payment to the non-federal entity of interest thereon, which were allowed as federal award costs, will be credited either as a cost reduction or cash refund, as appropriate, to the federal government. However, any interest actually paid or credited to a non-federal entity incident to a refund of tax, interest, and penalty will be paid or credited to the federal government only to the extent that such interest accrued over the period during which the non-federal entity has been reimbursed by the federal government for the taxes, interest, and penalties.

(c) Value Added Tax (VAT) Foreign taxes charged for the purchase of goods or services that a non-federal entity is legally required to pay in country is an allowable expense under federal awards.

Foreign tax refunds or applicable credits under federal awards refer to receipts, or reduction of expenditures, which operate to offset or reduce expense items that are allocable to federal awards as direct or indirect costs. To the extent that such credits accrued or received by the non-federal entity relate to allowable cost, these costs must be credited to the federal awarding agency either as costs or cash refunds. If the costs are credited back to the federal award, the non-federal entity may reduce the federal share of costs by the amount of the foreign tax reimbursement, or where federal award has not expired, use the foreign government tax refund for approved activities under the federal award with prior approval of the federal awarding agency.

#### **§200.471 Termination costs.**

Termination of a federal award generally gives rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the federal award not been terminated. Cost principles covering these items are set forth in this section. They are to be used in conjunction with the other provisions of this part in termination situations.

(a) The cost of items reasonably usable on the non-federal entity's other work must not be allowable unless the non-federal entity submits evidence that it would not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the non-federal entity, the federal awarding agency should consider the non-federal entity's plans and orders for current and scheduled activity. Contemporaneous purchases of common items by the non-federal entity must be regarded as evidence that such items are reasonably usable on the non-federal entity's other work. Any acceptance of common items as allocable to the terminated portion of the federal award must be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(b) If in a particular case, despite all reasonable efforts by the non-federal entity, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this part, except that any such costs continuing after termination due to the negligent or willful failure of the non-federal entity to discontinue such costs must be unallowable.

(c) Loss of useful value of special tooling, machinery, and equipment is generally allowable if:

(1) Such special tooling, special machinery, or equipment is not reasonably capable of use in the other work of the non-federal entity,

(2) The interest of the federal government is protected by transfer of title or by other means deemed appropriate by the federal awarding agency (see also §200.313 Equipment, paragraph (d), and

(3) The loss of useful value for any one terminated federal award is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion

of the federal award bears to the entire terminated federal award and other federal awards for which the special tooling, machinery, or equipment was acquired.

(d) Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated federal award less the residual value of such leases, if:

(1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the federal award and such further period as may be reasonable, and

(2) The non-federal entity makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the federal award, and of reasonable restoration required by the provisions of the lease.

(e) Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for:

(i) The preparation and presentation to the federal awarding agency of settlement claims and supporting data with respect to the terminated portion of the federal award, unless the termination is for cause (see Subpart D—Post Federal Award Requirements of this part, §§200.338 Remedies for Noncompliance through 200.342 Effects of Suspension and termination); and

(ii) The termination and settlement of subawards.

(2) Reasonable costs for the storage, transportation, protection, and disposition of property provided by the federal government or acquired or produced for the federal award.

(f) Claims under subawards, including the allocable portion of claims which are common to the federal award and to other work of the non-federal entity, are generally allowable. An appropriate share of the non-federal entity's indirect costs may be allocated to the amount of settlements with contractors and/or subrecipients, provided that the amount allocated is otherwise consistent with the basic guidelines contained in §200.414 Indirect (F&A) costs. The indirect costs so allocated must exclude the same and similar costs claimed directly or indirectly as settlement expenses.

#### **§200.472 Training and education costs.**

The cost of training and education provided for employee development is allowable.

#### **§200.473 Transportation costs.**

Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily

be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation cost may be charged to the appropriate indirect (F&A) cost accounts if the non-federal entity follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms and conditions of the federal award, should be treated as a direct cost.

#### **§200.474 Travel costs.**

(a) *General.* Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-federal entity. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-federal entity's non-federally-funded activities and in accordance with non-federal entity's written travel reimbursement policies. Notwithstanding the provisions of §200.444 General costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the federal awarding agency or pass-through entity when they are specifically related to the federal award.

(b) *Lodging and subsistence.* Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the non-federal entity in its regular operations as the result of the non-federal entity's written travel policy. In addition, if these costs are charged directly to the federal award documentation must justify that:

(1) Participation of the individual is necessary to the federal award; and

(2) The costs are reasonable and consistent with non-federal entity's established travel policy.

(c)(1) Temporary dependent care costs (as dependent is defined in 26 U.S.C. 152) above and beyond regular dependent care that directly results from travel to conferences is allowable provided that:

(i) The costs are a direct result of the individual's travel for the federal award;

(ii) The costs are consistent with the non-federal entity's documented travel policy for all entity travel; and

(iii) Are only temporary during the travel period.

(2) Travel costs for dependents are unallowable, except for travel of duration of six months or more with prior approval of the federal awarding agency. See also §200.432 Conferences.



(3) In the absence of an acceptable, written non-federal entity policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11, (“Travel and Subsistence Expenses; Mileage Allowances”), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under federal awards (48 CFR 31.205-46(a)).

(d) *Commercial air travel.* (1) Airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would:

(i) Require circuitous routing;

(ii) Require travel during unreasonable hours;

(iii) Excessively prolong travel;

(iv) Result in additional costs that would offset the transportation savings; or

(v) Offer accommodations not reasonably adequate for the traveler's medical needs. The non-federal entity must justify and document these conditions on a case-by-case basis in order for the use of first-class or business-class airfare to be allowable in such cases.

(2) Unless a pattern of avoidance is detected, the federal government will generally not question a non-federal entity's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the non-federal entity can demonstrate that such airfare was not available in the specific case.

(e) *Air travel by other than commercial carrier.* Costs of travel by non-federal entity-owned, -leased, or -chartered aircraft include the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of such costs that exceeds the cost of airfare as provided for in paragraph (d) of this section, is unallowable.

#### **§200.475 Trustees.**

Travel and subsistence costs of trustees (or directors) at IHEs and nonprofit organizations are allowable. See also §200.474 Travel costs.

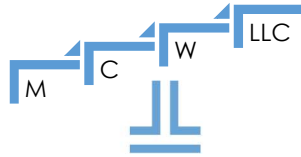
View the electronic version of the [Selected Principles of Cost online](#).

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**EXHIBIT B  
CONTRACTOR'S PROPOSAL**

Proposal Prepared for:  
Clackamas County

By:  
Matt C Westbrook, LLC



*September 13, 2021*

RFP 2021-68: Compliance and Subrecipient Monitoring  
Consulting Services

Bid #: S-C01010-00000494

## Matt C Westbrook, LLC

### General Background and Qualifications

Currently located in Hedgesville, West Virginia, Matt C Westbrook, LLC has provided financial assistance compliance, auditing, consulting, grant writing, or other grant services to County Governments, Governmental Component Units, Institutions of Higher Education (IHE's), local School Districts, Chambers of Commerce, federally-funded State Service Commissions, and Non-profits for 23 years. Matt began as an auditor, performing components of Single Audits under the guidance of a CPA. From that experience, Matt moved to post-award management, including the issuance of subrecipient agreements and monitoring of subrecipients. Considered an expert in his field, Matt has provided advice to governments and non-profits on a variety of financial assistance issues. Matt has provided grant consulting services to smaller, inexperienced non-profits and local units of government on a pro-bono basis to prepare them to receive and manage their incoming federal awards.

Matt C Westbrook, LLC is uniquely positioned to serve Clackamas County in several ways:

- 1. Our company is not connected to a CPA firm offering local auditing services.*

Local CPA firms can easily be put into conflicts of interest with the requirements of this RFP because these same CPA firms often audit local non-profits and smaller city governments, many of whom may be Clackamas County subrecipients. To accept the requirements of this contract, a CPA firm would have to decline auditing services to Clackamas County subrecipients, or recuse themselves from monitoring their own clients who may be county subrecipients.
- 2. Our company has longstanding relationships and monitoring histories with many non-profits and local governments in Clackamas County.*

Many local governments and non-profits both small and large have existing, longstanding relationships with our firm and have been trained by Matt Westbrook on federal requirements related to the management of their federal awards. These organizations know both what to expect when accepting a federal award and what to expect from our firm in terms of monitoring requirements and procedures.
- 3. Our company has trained many existing Clackamas County staff on the fundamentals of financial assistance management and has a relationship with many County departments and division directors.*

The majority of County staff involved in the financial management of financial assistance awards received by Clackamas County have been already trained on financial assistance management by our firm. In addition, we have solid relationships with most of the department and division directors or senior administrative staff receiving federal funds at Clackamas County.
- 4. Our company has a successful track record of providing Single Audit consulting services to Clackamas County and its subrecipients.*

Matt Westbrook has an existing relationship with the county's auditing firm, Moss Adams, and has represented Clackamas County on a number of issues during Single Audits over the last 6 years. Our firm has provided many of these same services to county subrecipients and their auditors.

In short, years of experience, existing relationships with both county staff and county subrecipients related to financial assistance management, and established monitoring expectations and financial assistance management requirements among these same individuals and organizations should be of exceeding value to Clackamas County when selecting a firm to perform the services outlined in this RFP.

Matt Westbrook will personally oversee the project outlined herein.

## Scope of Work

### Demonstrated Effectiveness

The following is a list of related services provided to our clients over the last three years:

#### Financial Assistance Compliance Services

During a global pandemic, where unprecedented amounts of grant funding have been funneled through these channels, keeping tabs on where funding should and does go, and how those funds are spent, is of paramount importance. Government departments and divisions have found significant challenges in locating landing spots for funding with community organizations that can properly manage federal and state financial assistance and deliver expected program outcomes. New and inexperienced non-profits have increased the pool of existing subrecipients as an effect of these challenges, a reality that brings with it additional risk to grant-making agencies.

***To mitigate risk, our company believes that prevention through intervention is immensely more valuable than the treatment of problems in the financial assistance management process.*** Treatment leaves scars in the form of audit findings, bad publicity, lost jobs in the case of failed-program dissolution, over-worked employees fixing mistakes, and potentially broken relationships with community organizations. Prevention maintains the integrity of involved organizations, keeps funders out of the news, contributes to a clean audit, and significantly reduces workload for all involved allowing governments and their subrecipients to focus on the things that matter: delivery of critical services to our communities.

Matt C Westbrook LLC has provided extensive services related to compliance monitoring and associated tasks for local governments and non-profits over the past three years, covering the time of the pandemic and several other major disasters. Clackamas County government has been the primary focus of our efforts during this period. Using the County's Financial Assistance Manual and 2 CFR 200 as guides, the financial compliance services we have provided are as follows:

#### Pre-award activities

- As the required primary contact for all requests for new federal subrecipient issuances, receipt and review of department requests and associated documents necessary for new federal subrecipient agreements, including maintenance of a database of all County federal subrecipients.
- Review for appropriateness all risk assessments completed (in part) by departments.
- Complete remaining, primarily financial portion of all risk assessments, to include
  - Assessment of the following documents provided by the potential subrecipient: 990's (for smaller non-profits), prepared financial statements, independent CPA review of financial statements, financial audit, Single Audit (for larger non-profits and

- governments). When audits are not present and no pre-award site visit is scheduled, review subrecipient-completed financial capability questionnaire.
- Additional, investigative assessment of financial capability of organization administrative staff if there are issues discovered in audit review and/or questionnaire.
  - Determine organizational capacity to manage federal awards.
  - Perform internet search of potential subrecipient for negative publicity incidents or lawsuits pending/filed.
  - Using calculated risk score to determine appropriate level of monitoring for potential subrecipient and discussing remaining any issues with issuing department or division. (See **Exhibit A: Sample Completed Risk Assessment** for an example)
  - Perform fiscal monitoring required by the risk score.
- Perform live pre-or-early-award financial assistance management training for inexperienced or high-risk subrecipients and identifying potential problem areas for improvement.
  - Provide other technical assistance and consultations to subrecipients looking to improve their internal controls and financial systems.
  - Follow-up with subrecipients to determine progress in the development of appropriate financial management systems.

#### *Post-Award Activities*

- Provide subrecipient consultation on necessary and required subrecipient audit services given the size of the organization and applicable regulatory requirements.
- Maintain subrecipient fiscal records on the county's servers.
- Request and review annual audits from all subrecipients with fiscal year expenditures covering county-funded federal awards. Update active risk assessments accordingly at the time of review, or when any adverse events occur or are resolved, and making any necessary changes to required monitoring levels.
- Review federally-funded subrecipient requests for reimbursement for appropriateness of items of cost, correct application of indirect cost rates, program budget issues, and required signatures per federal certification language requirements. *(Though the RFP FAQ's indicate the County's willingness to negotiate the workload related to review of subrecipient agreements to potentially pass some reviews to Finance grant accountants, our organization commits to a review of all such requests as provided directly to us by the issuing departments. See **Exhibit B: The Value of Invoice Review** for a real-world scenario describing the value of this type of review and why only the contract holder can perform this function effectively.)*
- Conduct professional site visits, with a department representative present, as required per risk assessments or as requested of management. *(Our organization performed six site visits or pre-award consultations for Clackamas County in FY 20-21.):*
  - Review the subrecipient's policies and procedures for coverage per 2 CFR 200, necessary discussion of internal controls, and evidence of periodic maintenance.
  - Conducting a baseline interview using county-provided subrecipient review instruments.
  - Test a sample of financial transactions.
  - Compare and contrast the previous three items to assess actual, implemented internal controls; to determine appropriateness, reasonableness and allowability of charges made to the award; and to uncover potentially fraudulent financial activities.

- Review client files, as appropriate, against the terms and conditions of the federal award.
- At the conclusion of the visit, meet with subrecipient and department representative to discuss findings.
- Make Finance management and any other appropriate department management aware of significant issues resulting from the site visit.
- Issue a site visit report, with county-department review, to subrecipients with site visit findings and include requested actions and deadlines. (See **Exhibit C: Sample Site Visit Report** for an example)
- Issue follow-up letter to clear the organization when all remedies have been implemented.

#### *Closeout Activities*

Within 90 days of the end of the period of performance:

- Consult with department to ensure all subrecipient programmatic requirements have been met and reports filed.
- Obtain a Final Financial Report (county-created tool) to document federal payments to subrecipient.
- Issue closeout letter.

#### *Services provided to Clackamas County: Scope and Budget*

The scope and budgets (as amended) for our firm’s previously contracted work with Clackamas County is attached in **Exhibit D: Previous Scope and Budget, as Amended**. Other directly related experience was provided to Clackamas County by Matt Westbrook in another capacity and prior to this previous contract.

Please note for Exhibit D:

1. The budget was increased to \$11,500/month in January of 2021 for the duration of the contract (through October, 2021).
2. The scope of work included services not covered in the present RFP. The estimated value of these services and the frequency or number performed are provided in parenthetical notation:
  - a. *General (ad hoc) Policy and Procedure Development and Writing.* (estimated \$3,000 per policy X 3)
  - b. *Provision of County-wide Trainings.* Previous work included provision of County-wide trainings related to the Financial Assistance Management Manual and other policy-related trainings connected with item “a,” above. (\$1,000 per training X 4 trainings)
  - c. *Maintenance of Financial Assistance Manual, Training Tools, Forms, and Other Documents and Templates.* The present RFP indicates these materials will be “County-provided” tools to be used by Contractor. (\$3,500, ad hoc)

#### *Organization receiving prior services*

Organization: Clackamas County Department of Finance

Contact: Christa Wolfe. ph: 503-742-5407 (desk), 503-758-4839 (cell)



## Financial Administration Services & Consultation: Single Audit

In addition to experience in performing Single Audits on local governments, our company has been the primary point of contact with Moss Adams for issues related to county subrecipients. These services include providing subrecipient monitoring materials, providing sampled selected items of cost to Moss Adams' audit lead, real-time trouble-shooting of audit issues uncovered during the audit, and assisting in resolving audit issues. Our firm has created, reviewed, and finalized the portion of the SEFA involving "Payments to subrecipients" for inclusion in the final Single Audit (see **Exhibit E: Example "Paid to Subrecipients" Single Audit Data**). We are also available to provide review and recommendations to Finance on any grant activity schedules created by Finance accountants.

## Notice of Funding Opportunities (NOFO)

Our company developed the County's existing NOFO policy and procedures through an extensive period of consultation with several County departments and divisions. This policy and its procedures are now a part of the current Financial Assistance Management Manual and have only recently been formally adopted by the County (January, 2021). With this in mind, our firm expects significant increases related to the volume of NOFO's requiring consultations, edits, and processing under this RFP.

Our previous work also included consultations with departments related to the development of their NOFO's, serving as the primary contact for Finance of all submitted NOFO's, editing for public consumption and reviewing for compliance with the adopted policy and related procedures, and serving as the primary contact with PGA for all NOFO's ready for publishing. We have maintained responsibility for the content of the County's public NOFO page ([www.clackamas.us/grants](http://www.clackamas.us/grants)).

## Subrecipient Agreement Development Services

Subrecipient agreement construction is a critical tool in the monitoring process, as it sets forth the expectations, regulations, and laws that govern the funder-recipient relationship and, most importantly, is legally enforceable. It takes deep knowledge of the Uniform Guidance (2 CFR 200) and familiarity with the norms of Clackamas County and its risk-appetite to ensure agreements are constructed properly. Our organization also has very good trust relationships in Clackamas County Counsel's office as pertains to the issuance of subrecipient agreements. Our experience over the past three years, as delivered to the county, includes:

- Review department-originating draft of subrecipient agreement.
  - Review assistance listing number, if applicable, (formerly: CFDA), amount of award, period of performance, and the inclusion of required federal laws and regulations, work with the issuing department on unresolved issues.
  - In some cases, departments requested the Department of Finance draft an amendment on their behalf or help in the conversion of a non-federal subrecipient agreement into a federal agreement. Matt Westbrook was the point person in these efforts.

## Emergency Operations Support

During several disaster events occurring in 2020 and continuing into 2021, Matt Westbrook was a key contact for County EOC Command, participating in weekly conference calls with the EOC Chief for consultation, provision of updates in CARES-related spending plans by County departments, and the preparation and review of CARES billings. Matt also served as a consultant to the FAR team for CARES-related issues, agreement requirements, and governing federal regulations. If awarded, our firm expects

to continue in a similar capacity with County Administration in the spending of ARPA funds, as necessary. We will also be available for any additional EOC support required during future disasters. EOC support may require irregular hours and tasks unforeseen by this RFP, and our company is prepared for these eventualities.

### Additional Tasks, Deviations, and Deletions

Though the RFP indicates<sup>1</sup> review of agreements consists only of services outlined in “Agreement Development Services,” above, **we indicate here a deviation from the RFP as written to include additional necessary agreement development services to be included in our bid at no extra charge:**

- Ensure current changes by County Counsel are incorporated into prior templates or new template constructions.
- Provision of overall editing services on the agreement.
- Review of subrecipient budget for appropriateness, categories suitable to track programmatic performance, and inclusion of correct indirect cost rates, when available.
  - Obtain negotiated indirect cost rate agreements from subrecipients that possess one and include in the subrecipient budget applied to the correct base.
- Review scope of work to ensure it aligns with the budget and other sections of the award.
- Insert appropriate “Specific Conditions” derived from the pre-award assessment process and risk score.
- Send agreement to Counsel and review Counsel’s comments. When necessary, consult with department on programmatic changes or issues; on other issues, make changes requested of Counsel; and provide consultation to Counsel on award or federal requirements on specific items.
- Send the final PDF of the agreement to the subrecipient, with department or division contact copied, with instructions to return signed agreement to department or division contact. *(This is a necessary step as there have been examples of county departments altering a post-counsel reviewed subrecipient agreement prior to sending to the subrecipient.)*
- Provision of same processes to agreement amendment constructions.

Clackamas County departments and divisions display a wide range of conscientiousness and capabilities when issuing subrecipient agreements and in their knowledge of county-required processes, so the level of engagement and “hand-holding” necessary can also vary widely.

### Fees: Time and Materials Basis

Service	Estimated Annual Hours	Rate	NTE Total
Compliance Monitoring	1040	\$60	\$125,000
Agreement Development (w/deviation)	600	\$60	
NOFO Development/Review	50	\$60	
Disaster-related consulting (“EOC”)	75	\$60	
Finance Administration	150	\$60	
General Consulting & Technical Services	165	\$60	

<sup>1</sup> Indicated in the RFP by “i.e.” rather than “e.g.” in Section 3.3 Item B.

The table above represents the budget for Year 1. Our company proposes Year 2 will replicate the Year 1 budget but also be subject to an annual NTE escalator equivalent to the cost of living adjustment (COLA) rate included in the County's EA contract in effect at the start of the new contract year. Each following contract year will be subject to the same escalator applied to the previous year base. Total value of the contract, including optional years, will be subject to the COLA rate in effect in each of Year 2 and following years. We are open to negotiation on the contractual specifics.

## References

Our company, while staffed with years of relevant experience, is only a year old. Our primary client during this period has been Clackamas County. However, we can provide two qualifying references from other clients served since inception.

### Reference #1:

Laura Edmonds, CEO  
North Clackamas Chamber of Commerce  
(503) 654-7777  
[laura@yourchamber.com](mailto:laura@yourchamber.com)

*Services Provided:* Email and Zoom consultations and technical services on a pro-bono basis related to becoming a federal subrecipient, responsibilities of a subrecipient, and how to negotiate with the state of Oregon on the receipt of ARPA funds. Client since Spring, 2021.

### Reference #2:

Bev Elliott  
5685 Pinewood Road  
Franklin, TN 37064  
(615) 747-0911  
[belliott@protonmail.com](mailto:belliott@protonmail.com)

*Services Provided:* In-person forensic accounting investigation for potential fraudulent activity on personal Quickbooks and bank accounts. Services provided in July, 2021.

All other references derive from Clackamas County from a variety of departments and can be provided upon request.

## Completed Proposal Certification (Attachment A)

# EXHIBIT A: SAMPLE COMPLETED RISK ASSESSMENT

## Clackamas County Subrecipient Risk Assessment INTERNAL USE ONLY

Subrecipient Name: XXXXX Check if for-profit entity:

Subrecipient #: XX-XXXX

Proposed Current Issuance Amount: \$ 9,319,588.00

Amendment # (if applic.):  1  2  3

PeopleSoft Supplier #: XXXXX

Funding by CFDA

CFDA	21,019	21,023	14,218	Finance completes
Current Issuance Amount	\$ 5,755,891.00	\$ 5,755,891.00	\$ 628,267.00	
Cumulative Agreement Amount	\$ 1,837,125.00	\$ 5,755,891.00	\$ 628,267.00	
County's Prior Year SEFA Total	\$ 7,695,340.00	\$ -	\$ 2,013,736.00	
% of funds passed for current FY	24%	#DIV/0!	31%	

Department Instructions: Assign an assessment rating (0, 1 or 2) for each criteria listed in your section, below. Weighted score and total risk will auto-calculate. Forward to Compliance Specialist for review and completion.

Criteria	Low Risk	Medium Risk	High Risk	Weight	Assessment 0 = low 1 = med 2 = high	Weighted Score
Proposed Amount of Subrecipient Agreement	XXXX ≤ \$25,000	\$25,001-\$149,999	\$XXX ≥ \$150,000	4	2	8
Longevity of the Subrecipient Program	Mature (Over 10 years)	Young (3-10 years)	Start-up (0-3 years)	3	2	6
Organization Type	County, Large City or NFP (>\$5 million annual budget)	Medium City or NFP (\$2-5 million annual budget)	Small City or NFP (<\$2 million annual budget)	2	1	2
Staff Turnover or Reorganization within the Organization	None	Moderate	New subrecipient or High	3	2	6
Complexity of the Program/Grant Requirements with Risk to County if Subrecipient is Non-compliant	Minimally complex requirements and regulations	Moderately complex requirements and regulations	Highly complex requirements and regulations	3	1	3
County's Previous Monitoring of Subrecipient	No Findings/Recommendations	Some Findings/Recommendations	New subrecipient or Multiple Findings/Recommendations	4	1	4
County's Prior Experience with the Subrecipient	Excellent delivery of expected outcomes/results	Satisfactory delivery of expected outcomes/results	New subrecipient or Unsatisfactory delivery of expected outcomes/results	4	1	4
Lawsuits Pending/Filed Against the Subrecipient	No	NA	Yes	2	0	0
Previously Suspended or Debarred	No	NA	Yes	2	0	0
Special Considerations: Negative Publicity, Other Jurisdiction Experience, or Contributing Factors	Comments: Site visit conducted in coordination with the issuance of this award and two others. Some findings; organization is very small, limiting internal controls. Organization will be treated as high risk throughout the term of all three awards. Findings resolved December, 2020, 2019 990 reviewed February 2021. Updated					
Highest Percentage of Total County's Federal Funds from Above-Named CFDA(s) Passed-Through to Subrecipient in current FY	XX% ≤ 10.00%	10.01%-29.99%	XX% ≥ 30.00%	4	2	8
Subrecipient's Sources of Federal Funding (i.e. non-Clackamas County funds)	Multiple sources of funding	Limited sources of funding	County is sole or near-sole source of funding	3	2	6
Organizational Experience with Administering Federal Grant Programs	More than 3 sources within the past five years	Less than 3 sources within the past five years	This will be the organization's only Federal award within the last five years/Other factors	4	2	8
Single Audits (Required if over \$750,000 in Federal funds expended during fiscal years beginning after 12/26/14)	Single Audits Annually	Single Audits Periodically	No Single Audit	2	2	4
Adequate Accounting Systems and Financial Reporting to Comply with 2 CFR 200 Subpart D	Yes	Some	No or New/Substantially Changed Systems	3	2	6
Established Policies and Procedures & Internal Controls	Most	Some	None/Unacceptable Internal Control Weaknesses	3	1	3
Review of Financial Statements Audit and (if applicable) Single Audit	Unmodified opinion on financial statements and no compliance issues	Modified opinion on financial statements and/or some compliance issues	Modified opinion on financial statements and/or significant compliance issues; no audit	4	2	8
				High	Total Risk Score:	86

Risk Assessments must be completed on every subrecipient award and additional funding instance on existing awards issued by the County. Risk Assessments are both award assessment and monitoring tools and should be updated throughout the award period as circumstances change.

Grant Manager: \_\_\_\_\_

Program Manager/Dept: \_\_\_\_\_

Compliance Specialist: Matt Westbrook

Date of last revision: 3/29/2021 Initials

Risk Score and Monitoring Matrix	
Low Risk	0-40
Medium Risk	41-74
High Risk	75-94
Unacceptable Risk	95-100

For scores Medium and higher, special conditions to be included in the agreement, i.e. extra reporting, review, etc.?

Yes  No

## Exhibit B

### The Value of Invoice Review

For medium- and high-risk subrecipients, invoice and backup review is a crucial aspect of subrecipient monitoring that can save granting agencies hundreds of thousands, if not millions, in unallowable costs.

Our company was recently involved in a real-world scenario demonstrating the value of invoice review.

Clackamas County had issued two subrecipients, from two separate department divisions, to a single subrecipient. In the course of monthly review of invoice backup for both awards over several days, we discovered the same costs were being claimed on both awards, and stopped payment on the remaining unpaid invoice until a site visit could be conducted. During the site visit, we uncovered severe lack of internal controls, gross incompetence, and lack of fund accounting. The agreements were immediately terminated. While there were still significant unsupported costs from previously paid invoices, our company potentially saved the County a significant amount of additional unallowed costs.

The present RFP FAQ's indicate the County would be willing to negotiate with the winning bidder to reduce workload related to invoice and backup review by assigning review to other FAR accountants. There are several reasons to reconsider this concession.

1. *FAR accountants are not trained in subrecipient invoice and backup review.* FAR accountants are not trained in subrecipient cost allowability, correct application of indirect cost rates, budget expenditure evaluation, rules around continued payment of invoices when subrecipient program staff are absent for certain periods, signature requirements on submitted federal certifications accompanying subrecipient invoices, or other, related subrecipient desk monitoring techniques. If there are issues with subrecipient backup, the reviewer must be capable of communicating the issues either directly to County staff holding the agreement or with the subrecipient directly, and must be able to evaluate when discussion should be with the subrecipient or the department or both. The reviewer must also be able to determine when adjustments to the risk assessment are necessary based on review of invoices.
2. *FAR accountants are not in a structural position to catch the issues described in the real-world scenario, above.* FAR accountants are assigned certain departments and divisions only. When subrecipient agreements are issued from two separate departments or divisions, it is often the case that any single FAR accountant may only be assigned to one of the issuing divisions and, therefore, would not be in a structural position to catch the issue described, above.
3. *Submission of invoices directly to the compliance monitor has already been communicated to the departments to accommodate recent department of Finance procedural changes.* Further change in process is likely to frustrate departments, given the recent volume of changes instituted by Finance.

Our firm is committed to taking on all subrecipient invoice review, as submitted to us directly by departments, as a crucial part of carrying out the functions of subrecipient monitoring and compliance.

## EXHIBIT C: SAMPLE SITE VISIT REPORT

December 30, 2020

RE: Monitoring of XXXX, Inc. Financial Activities

Dear XXXX:

On October 8, 2020, Matt Westbrook, Senior Compliance Specialist and XXX XXXX of Clackamas County conducted a Zoom meeting related to the federal subrecipient agreement XXXX, Inc. has with Clackamas County (Agreement 20-XXX).

The period under review was from July 1, 2019 to June, 2020; a closing zoom call was held to explain my findings.

In this monitoring review, particular attention was paid to internal controls evaluation (including financial policies review), documentation supporting reimbursement claims, and general grant accounting best practices.

XXXX, Inc. policies and procedures are generally well-written, and generally contain solid internal controls and coverage of relevant financial system components. There were two areas, however, requiring attention, discussed below.

During the visit, I sampled 10 AP and 10 Payroll selections. There were several findings among the transactions sampled.

As a result of this monitoring visit, we are issuing two findings and one recommendation. A *finding* is defined as a program element that does not comply with a Federal statute or regulation. There are no questioned costs. The findings and recommendation are detailed below:

### Finding Number 1 – Review of AP Invoices

There is a general issue with the approval route tree for Accounts Payable invoices. The system appears to be set up so several approvers can review and authorize payment on invoices, including the initiator (typically a program manager), an accounts payable clerk, a bookkeeper, and a senior administration manager. Approvers are assigned discreet logins through the system and notified when there is something to approve in their queues. However, a review of several invoices demonstrates individuals names are often missing from the approval tree, some approvals are missing altogether, and access to the logins for several positions in the approval tree may be shared.

One invoice (201907B-LYFT\_498) had three approvals from XXX XXXXX as Controller, Bookkeeping and Requester, and one “Accounts Payable” approval with no name associated with the approval.

Another invoice (08390361\_21624) lists only the name of the initial requester (XXX XXXXX, who also approved as “supervisor”), and only the positions (Accounts Payable/Accounting and Accounts

Payable/Bookkeeping) remaining in the route approval tree, with no associated name. The invoice shows the bookkeeping function and accounts payable function approved at the same time, indicating it was possibly a single person approving both functions. This pattern was repeated for another invoice (80331276\_21368).

Our concern is the control features built into your approval route tree are not verifiable and may not be functioning properly. A well-designed system would have names associated with approval functions required for each invoice, and only those positions necessary would be present (as per the approvers required in your written procedures). Alternatively, only those positions named as approvers in the route tree would have access to the logins for their respective positions.

### Finding Number 2 – Separation of Duties

XXXXX, Inc. written policies and procedures should specify which positions have access to blank check stock and the locked file cabinet and which position(s) are authorized to perform bank reconciliations.

From my interviews with staff, the AR Specialist performs all of the following functions (at least at times): bank statement reconciliation, deposit preparation, access to blank checks, GL entry. This is a significant internal control weakness. In addition, the Finance Director and Controller positions have significant overlap with responsibilities for: GL entry, bank statement reconciliations, and blank check stock access. Page 19 of your policies and procedures describes the need for cross-training of personnel in various financial functions, which is important, but the statements there do not emphasize the need to maintain separation of duties in fiscal assignments and the actual performance of financial functions appears to reflect this.

### Recommendations:

*Recommendation 1:* In the financial policies and procedures, the mileage rate should be specified, even if the statement is that the “IRS mileage rate in effect at the time of travel will be used.” Another mileage rate could also be specified. Additionally, there may be a minor discrepancy on page 11 in the mail section. In #3, it indicates the Senior Accountant applies payments to receivables in the general ledger, but the next paragraph indicates the Bookkeeper performs this function (if “cash” is intended there generally to mean all incoming revenue).

### *REQUESTED ACTION*

We request written responses to the two findings, detailing how you will address the issues identified.

**We request your written response by March 15, 2021.**

We appreciate the assistance we received from during this process. The County values our partnership with XXXX, Inc. in the service of Clackamas County residents.



Elizabeth Comfort  
Finance Director

**Department of Finance**

Public Services Building  
2051 Kaen Road, Suite 490 | Oregon City, OR 97045

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Westbrook", with a large, stylized flourish above the name.

Matt Westbrook  
Senior Compliance Specialist  
Clackamas County Finance

Cc: XXXXX, XXX Department



# Attachment A

## PROPOSAL CERTIFICATION RFP #2021-68

Submitted by:     Matt Westbrook, LLC (State of Formation: MD)      
**(Must be entity's full legal name, and State of Formation)**

Each Proposer must read, complete and submit a copy of this Proposal Certification with their Proposal. Failure to do so may result in rejection of the Proposal. By signature on this Proposal Certification, the undersigned certifies that they are authorized to act on behalf of the Proposer and that under penalty of perjury, the undersigned will comply with the following:

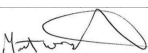
**SECTION I. OREGON TAX LAWS:** As required in ORS 279B.110(2)(e), the undersigned hereby certifies that, to the best of the undersigned's knowledge, the Proposer is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means the tax laws of the state or a political subdivision of the state, including ORS 305.620 and ORS chapters 316, 317 and 318. If a contract is executed, this information will be reported to the Internal Revenue Service. Information not matching IRS records could subject Proposer to 24% backup withholding.

**SECTION II. NON-DISCRIMINATION:** That the Proposer has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, gender identity, national origin, or any other protected class. Nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055.

**SECTION III. CONFLICT OF INTEREST:** The undersigned hereby certifies that no elected official, officer, agent or employee of Clackamas County is personally interested, directly or indirectly, in any resulting contract from this RFP, or the compensation to be paid under such contract, and that no representation, statements (oral or in writing), of the County, its elected officials, officers, agents, or employees had induced Proposer to submit this Proposal. In addition, the undersigned hereby certifies that this proposal is made without connection with any person, firm, or corporation submitting a proposal for the same material, and is in all respects fair and without collusion or fraud.

**SECTION IV. COMPLIANCE WITH SOLICITATION:** The undersigned further agrees and certifies that they:

1. Have read, understand and agree to be bound by and comply with all requirements, instructions, specifications, terms and conditions of the RFP (including any attachments); and
2. Are an authorized representative of the Proposer, that the information provided is true and accurate, and that providing incorrect or incomplete information may be cause for rejection of the Proposal or contract termination; and
3. Will furnish the designated item(s) and/or service(s) in accordance with the RFP and Proposal; and
4. Will use recyclable products to the maximum extend economically feasible in the performance of the contract work set forth in this RFP.

Name:     Matt Westbrook     Date:     9/12/21      
Signature:  Title:     Owner      
Email:     mcwestbrook@gmail.com     Telephone:     503-933-2091      
Oregon Business Registry Number:     N/A     OR CCB # (if applicable):                                     

Business Designation (check one):

Corporation  Partnership  Sole Proprietorship  Non-Profit  Limited Liability Company

Resident Quoter, as defined in ORS 279A.120

Non-Resident Quote. Resident State:     WV