

AGENDA *Revised

Added B.1, D.1-2, E.3 and III.2-7

Thursday, August 5, 2021 - 10:00 AM BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2021-60

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

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

1. Approval of Board Order _____ for the Annexation to Clackamas County Service District No. 1 – CL 21-003 *(Ken Martin)*
2. Approval of Board Order _____ for the Annexation to Clackamas County Service District No. 1 – CL 21-004 *(Ken Martin)*
3. Approval of Board Order _____ for the Annexation to Tri-City Service District – CL 21-002 *(Ken Martin)*
4. Approval of Board Order _____ for the Annexation to Tri-City Service District – CL 21-005 *(Ken Martin)*

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

A. Health, Housing & Human Services

1. Approval of a Consent to Transfer, Assignment, Assumption and Release Agreement for 85 Causey/Acadia Gardens (HOME loan). No financial impact to the existing HOME loan. No County General Funds are involved. – *Community Development*
2. Approval of a Consent to Transfer, Assignment, Assumption and Release Agreement for Town Center Station. No financial impact to the existing HOME loan. No County General Funds are involved. – *Community Development*

3. Approval of a Consent to Transfer, Assignment, Assumption and Release Agreement for Mt Scott Terrace Apartments (HOME loan). No financial impact to the existing HOME loan. No County General Funds are involved. – *Community Development*
4. Authorization to Sign HUD Grant Award Document for 2020-2021 Continuum of Care (CoC) Program Funds. Total HUD grant is \$1,276,308, with \$74,587 budgeted as match from County General Funds. – *Community Development*
5. Approval of an Intergovernmental Agreement with the State of Oregon Housing and Community Services Department to administer Community Resource Division Funds. This is a revenue agreement with State of Oregon, Housing and Community Services Department, not to exceed \$31,747,027. No County General Funds are involved. – *Social Services*
6. Approval of Intergovernmental Subrecipient Agreement with North Clackamas Parks and Recreation District (NCPRD)-Milwaukie Center to Provide Social Services for Clackamas County Residents. Maximum agreement is \$424,192, funded through Social Services, Oregon Housing and Community Resources and various transportation agreement. No County General Funds are involved. – *Social Services*

B. Finance

1. *Approval of Goods and Services Contract with Johnson Controls, Inc. for the Brooks Building BAS System Replacement Project. Total contract valued is \$295,457 funded through County General Funds.

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*

D. County Counsel

1. *Approval of a Quitclaim Deed for Property to Lee and Christie Englesby. There is not financial impact.
2. *Intergovernmental Agreement between Clackamas County and the Clackamas County Fair Board for the 2021 Clackamas County Fair.

E. Technology Services

1. Approval of an Intergovernmental Agreement between Clackamas Broadband eXchange and City of Hillsboro. This is a reimbursement of \$5,000 from the City of Hillsboro, to CBX for staff expenses. No County General Funds are involved.
2. Approval of Amendment #4 between Clackamas Broadband eXchange and the State of Oregon. Funding will be done through CBX budget and later reimbursed by the State of Oregon. Monthly recurring cost through June 30, 2026 is \$510 and a nonrecurring cost of \$33,900. No County General Funds are involved.
3. *Approval of a Contract between Clackamas Broadband eXchange and Denver Gas and Electric MMR, LLC. Monthly recurring cost is \$1,192.50, funded through CBX budget. No County General Funds are involved.

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

1. Release of a Security Deposit to Oregon Beverage Recycling Cooperative as Required in a Post Closing Escrow and Development Agreement. \$125,000 will be disbursed from the escrow account to OBRC. No fiscal impact.
2. *Approval of the First Amendment to the Intergovernmental Agreement between Clackamas River Water and the Clackamas County Development Agency Relating to the Clackamas Regional Center Mobility Improvement project. No fiscal impact, reimbursement agreement distributing \$203,477.33 to Clackamas Town Center Urban Renewal plan area for work completed on behalf of the water district.
3. *Execution of a Quitclaim Deed related to an Owner Participation Development Agreement between Kohnstamm Pacific Corp and the Clackamas County Development Agency. No fiscal impact.
4. *Execution of a Bill of Sale to the Government Camp Water Company for a New Waterline Constructed in Government Camp. No fiscal impact.
5. *Revocation of a Special Use Permit from the United States Forest Service to Clackamas County to Allow Construction of a Waterline in Government Camp. No fiscal impact.
6. *Approval of a Special Use Permit from the United States Forest Service to Clackamas County for Maintenance of Two Community Identification Signs for Government Camp. There is no fiscal impact.
7. *Approval of a Resolution Approving a Land Division and Conveyance and Delegating Authority to the Director of the Department of Transportation and Development to Execute the Same. There is no fiscal impact.

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

1. Approval of an Amendment to the Conservation Easement Granted to Water Environment Services by the Athey Creek Christian Fellowship for the Church's Accessible Parking Improvement Project. There is not financial impact.

V. PUBLIC COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

VI. COUNTY ADMINISTRATOR UPDATE

VII. COMMISSIONERS COMMUNICATION

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



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Assistants

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Annexation to Clackamas County Service District No. 1

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
Counsel Review	7/20/2021, JM
Procurement Review	N/A, Item is a Boundary Change not subject to Procurement Review.
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Jeffrey D. Munns, Assistant County Counsel
Proposal No.	CL 21-003

BACKGROUND

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Clackamas County Service District No. 1 is such a district.

Proposal No. CL 21-003 is a proposed annexation to Clackamas County Service District No. 1 ("District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Notice posted online (<https://www.clackamas.us/meetings/bcc/business/2021-08-05>); 3) Published notice twice in the Clackamas County Review; 4) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.855, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the eastern part of the District. The territory contains 9.76 acres, 1 vacant single-family dwelling and is valued at \$2,298,420.

REASON FOR ANNEXATION

The property owners desire sewer service to serve a development consisting of several new multi-family apartment buildings, a community center and new parking improvements.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with the Tri-City Service District and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-21-003, annexation to Clackamas County Service District No. 1.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving a
Boundary Change Proposal No.
CL 21-003



Order No. _____

This matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Clackamas County Service District No. 1;

It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

It further appearing that this matter came before the Board for public hearing on August 5, 2021 and that a decision of approval was made August 5, 2021;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 21-003 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas County Service District No. 1 as of August 5, 2021.

DATED this 5th day of August, 2021.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Tootie Smith, Chair

Christina Terwilliger, Clerk to the Board

FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 9.76 acres, 1 vacant single-family dwelling and is valued at \$2,298,420.
2. The property owners desire sewer service to serve a development consisting of several new multi-family apartment buildings, a community center and new parking improvements.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership (“WES”) as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

4. Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:
 1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
 2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
 3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

¹ A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in the findings below. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.

5. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and

urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

6. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

7. The territory is inside the City of Happy Valley and is zoned MUE, Mixed Use Employment which allows for the proposed use.
8. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
9. WES, as the service provider for the District, has sewer lines available at the west edge of the property in SE Stadium Way.
10. The Sunrise Water Authority can provide water service to the area from lines adjacent in SE Parklane and SE Stadium Way.
11. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff’s Department for service.
12. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 4 & 8 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the original public facility plan for this area does call for sewer service by the District.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the Happy Valley Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services are available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 9. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.

EXHIBIT "B"

January 6, 2021

Annexation

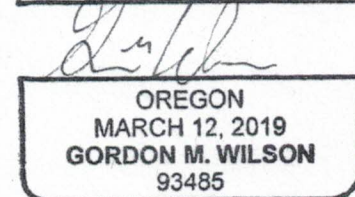
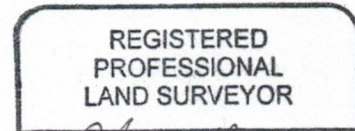
A tract of land, as shown on attached Exhibit "C", lying in the North One-Half of Section 7, Township 2 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, being a portion of that tract of land as described in a Statutory Warranty Deed to North Clackamas School District #12, recorded as Document No. 2015-050598, Clackamas County Deed Records, being further described as follows;

Commencing at a 3-1/4" bronze disc, being the One-Quarter corner common to said Section 7 and Section 6 of Township 2 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, per USBT Page 2010-049, Clackamas County Survey Records; thence, S01°51'40"W, along the former west right of way line of SE 172nd Ave as shown on Partition Plat No. 2011-011, Clackamas County Survey Records, 277.86 feet to a point on the north line of said tract per Document No. 2015-050598; thence, N89°41'12"W, along said north line, 20.71 feet to its intersection with the west right of way line of SE 172nd Ave per Right of Way Document No. 2016-083739, Clackamas County Deed Records, being the **Point of Beginning**;

Thence, S03°08'29"W along the west right of way line of SE 172nd Ave per said Document No. 2016-083739, 277.61 feet to its intersection with the south line of said Document No. 2015-050598; thence, N89°47'35"W along said south line, 1531.75 feet to the southwest corner of said Document No. 2015-050598; thence, N00°59'34"E along the west line of said Document No. 2015-050598, 277.50 feet to the northwest corner thereof; thence, S89°52'44"E along the north line of said Document No. 2015-050598, 784.96 feet to an angle point; thence, S89°41'12"E, continuing along said north line, 757.20 feet to the **Point of Beginning**

The tract of land to which this description applies contains 9.81 acres, more or less.

This legal description, along with the Basis of Bearings thereof, is based on the Oregon State Plane Coordinate System-North Zone. The south line of Document No. 2015-050598 was held to be S89°47'35"E.



Renews: 06/30/ 2022

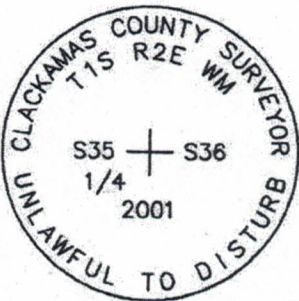


EXHIBIT "C" ANNEXATION EXHIBIT MAP

LOCATED IN THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER, AND THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 2 EAST, W.M. CLACKAMAS COUNTY, OREGON

TRACT C
"NORTHVIEW AT HAPPY VALLEY HEIGHTS"

POINT OF BEGINNING ONE-QUARTER SECTION CORNER COMMON TO SECTIONS 35 AND 36, T1S, R2E, WM PER U.S.B.T. ENTRY 2001-101

DOCUMENT NUMBER 2001-074921

LOT 19 "CLAREMONT AT HAPPY VALLEY"

DOCUMENT NO. 2009-062196

S88°39'38"E 327.02'

KRAUSE LN

N02°10'40"E 668.87'

S02°11'14"W 669.76'

DOCUMENT NUMBER 2018-066901

1S2E36CB-05600, 05690
DOCUMENT NUMBERS 2015-008818 AND 97-086688
218,818 SQ. FT. OR 5.02 ACRES +/-

N88°30'20"W 326.89'

LOT 14 "TUSCAN HILLS"

SE TOSCANA PL

LOT 15 "TUSCAN HILLS"

LOT 16 "TUSCAN HILLS"

LOT 17 "TUSCAN HILLS"

SE VIOLA VINEYARD DR



SCALE 1" = 150'

REGISTERED PROFESSIONAL LAND SURVEYOR

John T. Campbell
OREGON
JULY 15, 2003
JOHN T. CAMPBELL
60073

RENEWS: 12-31-2021

SEE ATTACHED LEGAL DESCRIPTION



Harper Houf Peterson Righellis Inc.

ENGINEERS • PLANNERS
LANDSCAPE ARCHITECTS • SURVEYORS

205 SE Spokane Street, Suite 200, Portland, OR 97202
phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

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PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

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Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Assistants

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Annexation to Clackamas County Service District No. 1

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
Counsel Review	7/20/2021, JM
Procurement Review	N/A, Item is a Boundary Change not subject to Procurement Review.
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Jeffrey D. Munns, Assistant County Counsel
Proposal No.	CL 21-004

BACKGROUND

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Clackamas County Service District No. 1 is such a district.

Proposal No. CL 21-004 is a proposed annexation to Clackamas County Service District No. 1 ("District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Notice posted online (<https://www.clackamas.us/meetings/bcc/business/2021-08-05>); 3) Published notice twice in the Clackamas County Review; 4) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.855, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the eastern part of the District. The territory contains 1.64 acres, 1 vacant single-family dwelling and is valued at \$320,177.

REASON FOR ANNEXATION

The property owner desires sewer service to replace the existing septic system.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

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To approve a boundary change the County must:

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 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
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- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with the Tri-City Service District and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-21-004, annexation to Clackamas County Service District No. 1.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving a
Boundary Change Proposal No.
CL 21-004



Order No. _____

This matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Clackamas County Service District No. 1;

It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

It further appearing that this matter came before the Board for public hearing on August 5, 2021 and that a decision of approval was made August 5, 2021;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 21-004 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas County Service District No. 1 as of August 5, 2021.

DATED this 5th day of August, 2021.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Tootie Smith, Chair

Christina Terwilliger, Clerk to the Board

FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 1.64 acres, 1 single-family dwelling, a population of 1 and is valued at \$320,177.
2. The property owner desires sewer service to replace the existing septic system.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership (“WES”) as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

4. Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:
 1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
 2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
 3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

To approve a boundary change, the County Board must apply the following criteria:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to

¹ A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

- ORS 195.205;
- (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in the findings below. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.

5. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

6. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.
7. The territory is inside the City of Happy Valley and is zoned IC, Industrial Campus. Current land use is one single-family dwelling.
8. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
9. WES, as the service provider for the District, has sewer lines available at the east edge of the property in SE 172nd Avenue.
10. The Sunrise Water Authority provides water service to the property.
11. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff's Department for service.
12. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly

applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 4 & 8 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.

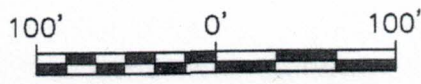
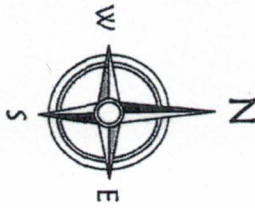
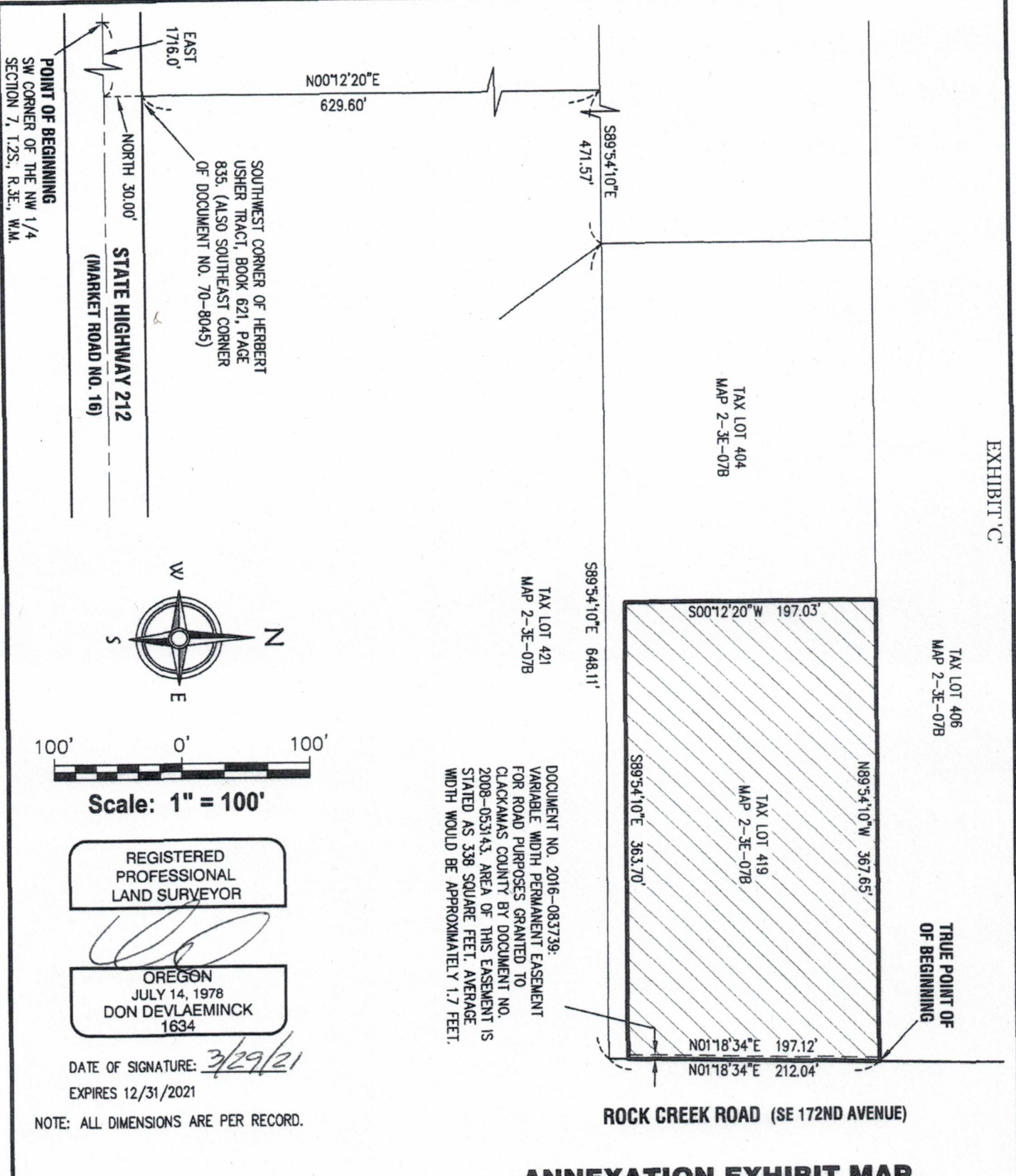
2. The Metro Code calls for consistency between the Board decision and any “applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services.” The Board notes the original public facility plan for this area does call for sewer service by the District.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the Happy Valley Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services are available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 9. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.

EXHIBIT "B"
LEGAL DESCRIPTION

Part of the Northwest quarter of Section 7, Township 2 South, Range 3 East, Willamette Meridian, in the City of Happy Valley, County of Clackamas and State of Oregon, being more particularly described as follows:

Beginning at the Southwest corner of the Northwest quarter of Section 7, Township 2 South, Range 3 East, Willamette Meridian; thence Easterly along the center of Market Road No. 16, a distance of 1716.0 feet; thence Northerly 30.00 feet to the Southwesterly corner of the Herbert Usher property described in Book 621, Page 835, Deed Records, said point also being the Southeast corner of that property described in Film Jacket 70-8045, 46, Deed Records; thence continuing North 0° 12' 20" East along the West line of said Usher property, 629.6 feet to a 3/4 inch iron pipe at an angle point in said Usher property; thence South 89° 54' 10" East 471.57 feet; thence South 89° 54' 10" East 648.11 feet to an iron rod, said point being 21.0 feet, more or less, Westerly from the center of Rock Creek Road as traveled and paved; thence North 01° 18' 34" East along the Westerly edge of said road, 212.04 feet to an iron rod to the true point of beginning; thence North 89° 54' 10" West 367.65 feet; thence South 0° 12' 20" West 197.03 feet to a point; thence South 89° 54' 10" East, a distance of 363.70 feet to a point on the Westerly line of the aforementioned Rock Creek Road; thence North along the Westerly edge of said road, 197.12 feet to the point of beginning.

Excepting therefrom that portion described in acquisition to Clackamas County recorded December 5, 2016, recording No.2016-083739.



Scale: 1" = 100'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
 JULY 14, 1978
 DON DEVLAEINCK
 1634

DATE OF SIGNATURE: 3/29/21
 EXPIRES 12/31/2021

NOTE: ALL DIMENSIONS ARE PER RECORD.

ANNEXATION EXHIBIT MAP

8442 Annexation.dwg

COMPASS Land Surveyors
 4107 SE International Way, Suite 705
 Milwaukie, Oregon 97222 503-653-9093

NW 1/4 OF SECTION 7, T.2S., R.3E., W.M
 CLACKAMAS COUNTY, OREGON



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

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Andrew Narus
Sarah Foreman
Assistants

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Annexation to Tri-City County Service District

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
Counsel Review	7/20/2021, JM
Procurement Review	N/A, Item is a Boundary Change not subject to Procurement Review.
Contact Person	Ken Martin, Boundary Change Consultant - 503-222-0955 Jeffrey D. Munns, Assistant County Counsel
Proposal No.	CL 21-002

BACKGROUND

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Tri-City County Service District is such a district.

Proposal No. CL 21-002 is a proposed annexation to Tri-City County Service District (“District”).

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Notice posted online (<https://www.clackamas.us/meetings/bcc/business/2021-08-05>); 3) Published notice twice in the Clackamas County Review; 4) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Oregon City has approved this petition.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the southern part of the District. The territory contains .9 acres, 1 single family dwelling, a population of 2 and is valued at \$250,000.

REASON FOR ANNEXATION

The property owners desire sewer service to serve the existing single family dwelling lot.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Tri-City County Service District and the City of Oregon City do have an agreement calling for the District to be the provider sewage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement. Local sewerage collection will continue to be provided by the City.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served (major transmission and treatment) by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with Clackamas County Service District # 1 and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-21-002, annexation to Tri-City County Service District.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving a
Boundary Change Proposal
CL 21-002



Order No. _____

This matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Tri-City County Service District;

It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

It further appearing that this matter came before the Board for public hearing on August 5, 2021 and that a decision of approval was made on August 5, 2021;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 21-002 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Tri-City County Service District as of August 5, 2021.

DATED this 5th day of August, 2021.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Tootie Smith, Chair

Christina Terwiliger, Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. Proposal No. CL 21-002 is a proposed annexation to Tri-City County Service District ("District").
2. If the Board approves the proposal the boundary change will become effective immediately.
3. The territory to be annexed contains .9 acres, 1 single family dwelling, a population of 2 and is valued at \$250,000.
4. The property owners desire sewer service to serve the existing single family dwelling.
5. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Tri-City County Service District and the City of Oregon City do have an agreement calling for the District to be the provider of sewerage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted in Finding No. 2.

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in Findings 7 and 8. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.

6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

8. The property was annexed to the City of Oregon City via City Ordinance 21-1005 dated February 17, 2021. The property is developed with a single family dwelling. The property is zoned Campus Industrial but no change in use is currently proposed.
9. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
10. The property can be served from City’s sewer line in Beaver Creek Road. WES, as the service provider for the District, will provide major transmission and treatment of sewerage.

11. The property is already served with water.
12. The area receives police service from the City of Oregon City.
13. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
14. The area to be annexed receives parks and recreation service from the City of Oregon City.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 5 & 9 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the City and the District have agreed which entity will provide which aspects of sewer service to the area.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the Oregon City Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 10. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.

EXHIBIT 'B'
Annexation Description Revised 5-21-21

Part of the Washington Williams and wife Donation Land Claim, in Section 9, Township 3 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at a basalt stone 16 x 10 x 10 inches set at the Northeast corner of the Robert Caufield Donation Land Claim, in Section 9, Township 3 South, Range 2 East of the Willamette Meridian, which point is also a re-entrant corner of the Washington Williams Donation Land Claim; thence South 89° West along claim line 753.60 feet to a point in the center of the Oregon City-Beavercreek County Road; thence North 40° 50' West in the center of said road, 283.80 feet to the true point of beginning of th tract herein described; said point marks the Northwest corner of the Bond tract described in Book 328, Page 738, Deed Records; from said true point of beginning; thence North 40° 50' West along the center line of said road 130.20 feet; thence North 89° East, 477.30 feet to an iron pipe; thence South 0° 24' East, 100.00 feet to an iron pipe on the North boundary of the Moehnke tract described in Book 214, Page 398, Deed Records; thence South 89° West, 393.89 feet to the true point of beginning.

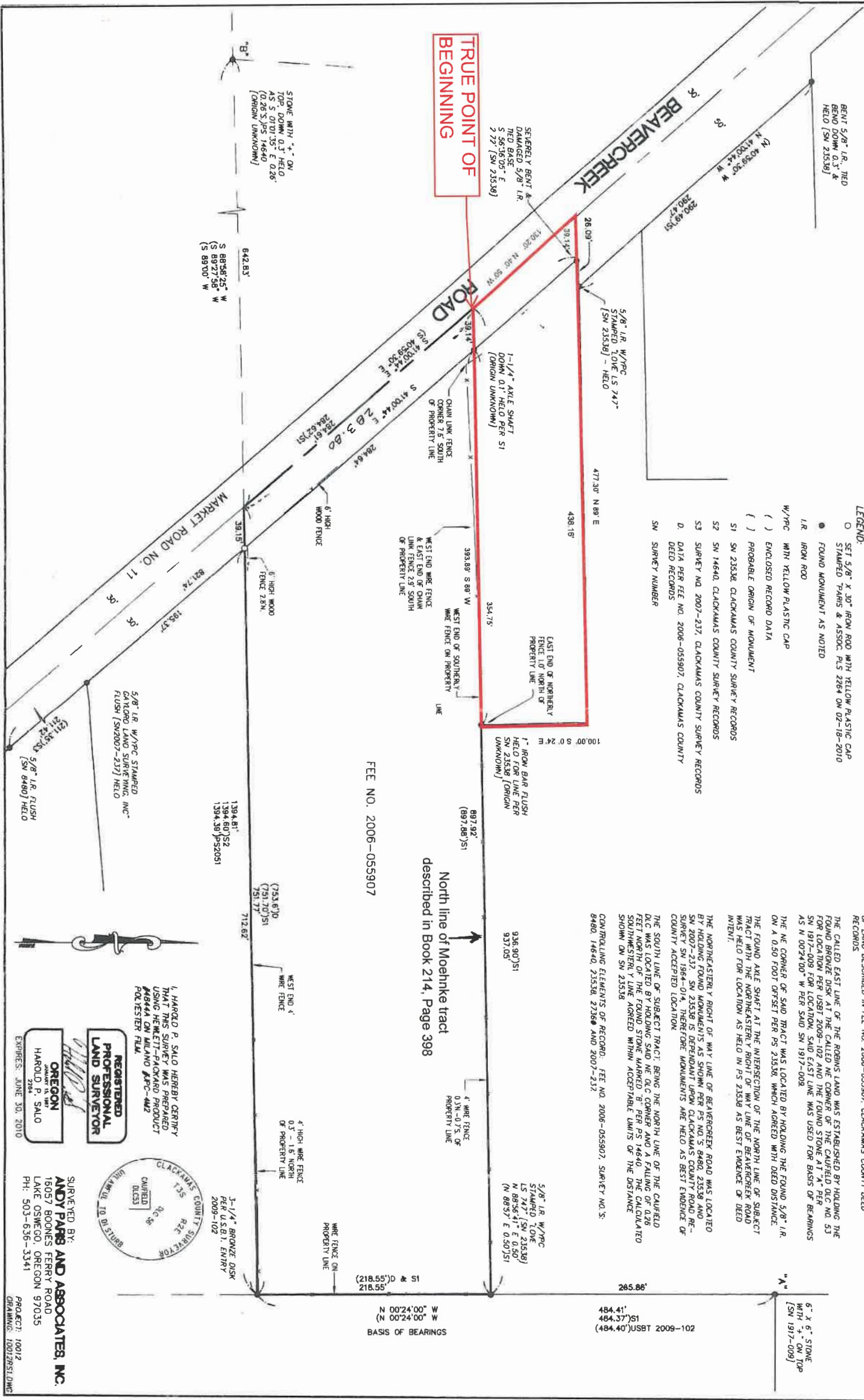
RECORD OF SURVEY
FOR:
FATCAT, LLC
IN THE NE 1/4 SECTION 9, T.3S., R.2E., W.1E.
CLACKAMAS COUNTY, OREGON
FEBRUARY 18, 2010 SCALE 1" = 60'

CLACKAMAS COUNTY SURVEYOR
RECEIVED: 3-23-10
ACCEPTED FOR FILING: 4-14-10
SURVEY NO. SN2010-059

- LEGEND:**
- SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP STAMPED PAIRS & ASSOC. PLS 2264 ON 02-18-2010
 - FOUND MONUMENT AS NOTED
 - IRON ROD
 - W/PC WITH YELLOW PLASTIC CAP
 - () ENCLOSED RECORD DATA
 - () PROBABLE ORIGIN OF MONUMENT
 - S1 SN 23538, CLACKAMAS COUNTY SURVEY RECORDS
 - S2 SN 14640, CLACKAMAS COUNTY SURVEY RECORDS
 - S3 SURVEY NO. 2007-237, CLACKAMAS COUNTY SURVEY RECORDS
 - D DATA PER FEE NO. 2006-055907, CLACKAMAS COUNTY DEED RECORDS
 - SN SURVEY NUMBER

NARRATIVE:
THE PURPOSE OF THIS SURVEY WAS TO LOCATE THE BOUNDARIES OF A TRACT OF LAND DESCRIBED IN FEE NO. 2006-055907, CLACKAMAS COUNTY DEED RECORDS.
THE CALLED EAST LINE OF THE ROBINS LAND WAS ESTABLISHED BY HOLDING THE FOUND BRONZE DISK AT THE CALLED NE CORNER OF THE CAUFIELD D/C NO. 53 FOR LOCATION PER USBT 2009-102 AND THE FOUND STONE AT "A" PER SN 1917-009 FOR LOCATION. SAID EAST LINE WAS USED FOR BASIS OF BEGINNINGS AS N 00°24'00" W PER SAID SN 1917-009.
THE NE CORNER OF SAID TRACT WAS LOCATED BY HOLDING THE FOUND 5/8" I.R. ON A 0.50 FOOT OFFSET PER PS 23538, WHICH AGREED WITH DEED DISTANCE.
THE FOUND AXLE SHIRT AT THE INTERSECTION OF THE NORTH LINE OF SUBJECT TRACT WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF BEAVERCREEK ROAD WAS HELD FOR LOCATION AS HELD IN PS 23538 AS BEST EVIDENCE OF DEED INTENT.
THE NORTHEASTERLY RIGHT OF WAY LINE OF BEAVERCREEK ROAD WAS LOCATED BY HOLDING FOUND MONUMENTS AS SHOWN PER PS NO. S 8480, 23538 AND 2007-237. SAID 23538 IS DEPENDANT UPON CLACKAMAS COUNTY ROAD RE-SURF SN 1964-012. THE FOUND MONUMENTS ARE HELD AS BEST EVIDENCE OF COUNTY ACCEPTED LOCATION.
THE SOUTH LINE OF SUBJECT TRACT, BEING THE NORTH LINE OF THE CAUFIELD D/C WAS LOCATED BY HOLDING SAID NE D/C CORNER AND A FALLING OF 0.26 FEET NORTH OF THE FOUND STONE MARKED "B" PER PS 14640. THE CALCULATED SOUTHWESTERLY LINE AGREED WITHIN ACCEPTABLE LIMITS OF THE DISTANCE SHOWN ON SN 23538.
CONTROLLING ELEMENTS OF RECORD: FEE NO. 2006-055907, SURVEY NO. S. 8480, 14640, 23538, 27368 AND 2007-2372.

TRUE POINT OF BEGINNING



North line of Moehke tract described in Book 214, Page 398

FEE NO. 2006-055907

I, HAROLD P. SALO HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED USING HELMERT-POLKARD PRODUCT #4644 ON WILLANO APC-442 POLYESTER FILM.



REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
HAROLD P. SALO
EXPIRES: JUNE 30, 2010

SURVEYED BY:
ANDY PARR AND ASSOCIATES, INC.
16057 BOONES FERRY ROAD
LAKE OSWEGO, OREGON 97035
PH: 503-636-3341

PROJECT: 10012
DRAWING: 10012RST.DWG

(218.55') D & S1
218.55'
N 00°24'00" W
(N 00°24'00" W
BASIS OF BEARINGS



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

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County Counsel

Kathleen Rastetter
Scott C. Ciecko
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Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Assistants

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Annexation to Tri-City County Service District

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
Counsel Review	7/20/2021, JM
Procurement Review	N/A, Item is a Boundary Change not subject to Procurement Review.
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Jeffrey D. Munns, Assistant County Counsel
Proposal No.	CL 21-005

BACKGROUND

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Tri-City County Service District is such a district.

Proposal No. CL 21-005 is a proposed annexation to Tri-City County Service District ("District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Notice posted online (<https://www.clackamas.us/meetings/bcc/business/2021-08-05>); 3) Published notice twice in the Clackamas County Review; 4) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Oregon City has approved this petition.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the southern part of the District. The territory contains .494 acres, 1 single family dwelling, a population of 2 and is valued at \$249,798.

REASON FOR ANNEXATION

The property owners desire sewer service to serve the existing single family dwelling.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Tri-City County Service District and the City of Oregon City do have an agreement calling for the District to be the provider sewage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement. Local sewerage collection will continue to be provided by the City.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served (major transmission and treatment) by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with Clackamas County Service District # 1 and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-21-005, annexation to Tri-City County Service District.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving a
Boundary Change Proposal No.
CL 21-005



Order No. _____

This matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Tri-City County Service District;

It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

It further appearing that this matter came before the Board for public hearing on August 5, 2021 and that a decision of approval was made on August 5, 2021;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 21-005 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Tri-City County Service District as of August 5, 2021.

DATED this 5th day of August, 2021.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Tootie Smith, Chair

Christina Terwiliger, Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. Proposal No. CL 21-005 is a proposed annexation to Tri-City County Service District ("District").
2. If the Board approves the proposal the boundary change will become effective immediately.
3. The territory to be annexed contains .494 acres, 1 single family dwelling, a population of 2 and is valued at \$249,798.
4. The property owners desire sewer service to serve the existing single-family dwelling.
5. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Tri-City County Service District and the City of Oregon City do have an agreement calling for the District to be the provider of sewerage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted in Finding No. 2.

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in Findings 7 and 8. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.

6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

8. The property was annexed to the City of Oregon City via City Ordinance 21-1008 dated April 21, 2021. The property is developed with a single-family dwelling. The property is zoned Residential and is fully developed.
9. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
10. The property can be served from the City’s sewer line at the intersection of S. Forest Ridge Road and Merchant Place. WES, as the service provider for the District, will provide major transmission and treatment of the sewerage.

11. The property is already served with water.
12. The area receives police service from the City of Oregon City.
13. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
14. The area to be annexed receives parks and recreation service from the City of Oregon City.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 5 & 9 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the City and the District have agreed which entity will provide which aspects of sewer service to the area.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the Oregon City Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 10. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 | www.aks-eng.com

AKS Job #3062

OFFICES IN: BEND, OR - KEIZER, OR - TUALATIN, OR - VANCOUVER, WA

EXHIBIT B

Description

Lot 4 of the plat "Sunnyridge Acres No. 2", Plat No. 1653, Clackamas County Plat Records, and a portion of right-of-way, located in the Northwest One-Quarter of Section 12, Township 3 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the south corner of said Lot 4; thence along the southwesterly line of said Lot 4 and the northwesterly extension thereof, North 59°45'00" West 170.00 feet to the centerline of Sunnyridge Court; thence along said centerline, North 30°15'00" East 158.10 feet to the centerline of Forest Ridge Lane; thence along said centerline, South 59°45'00" East 109.32 feet to the City of Oregon City city limits line; thence continuing along said centerline and said city limits line, South 59°45'00" East 60.68 feet to the northeasterly extension of the southeasterly line of said Lot 4; thence leaving said city limits line along said northeasterly extension and the southeasterly line of said Lot 4, South 30°15'00" West 158.10 feet to the Point of Beginning.

The above described tract of land contains 26,877 square feet, more or less.

The Basis of Bearings for this description is per said plat of "Sunnyridge Acres No. 2".

3/16/2021

REGISTERED
PROFESSIONAL
LAND SURVEYOR

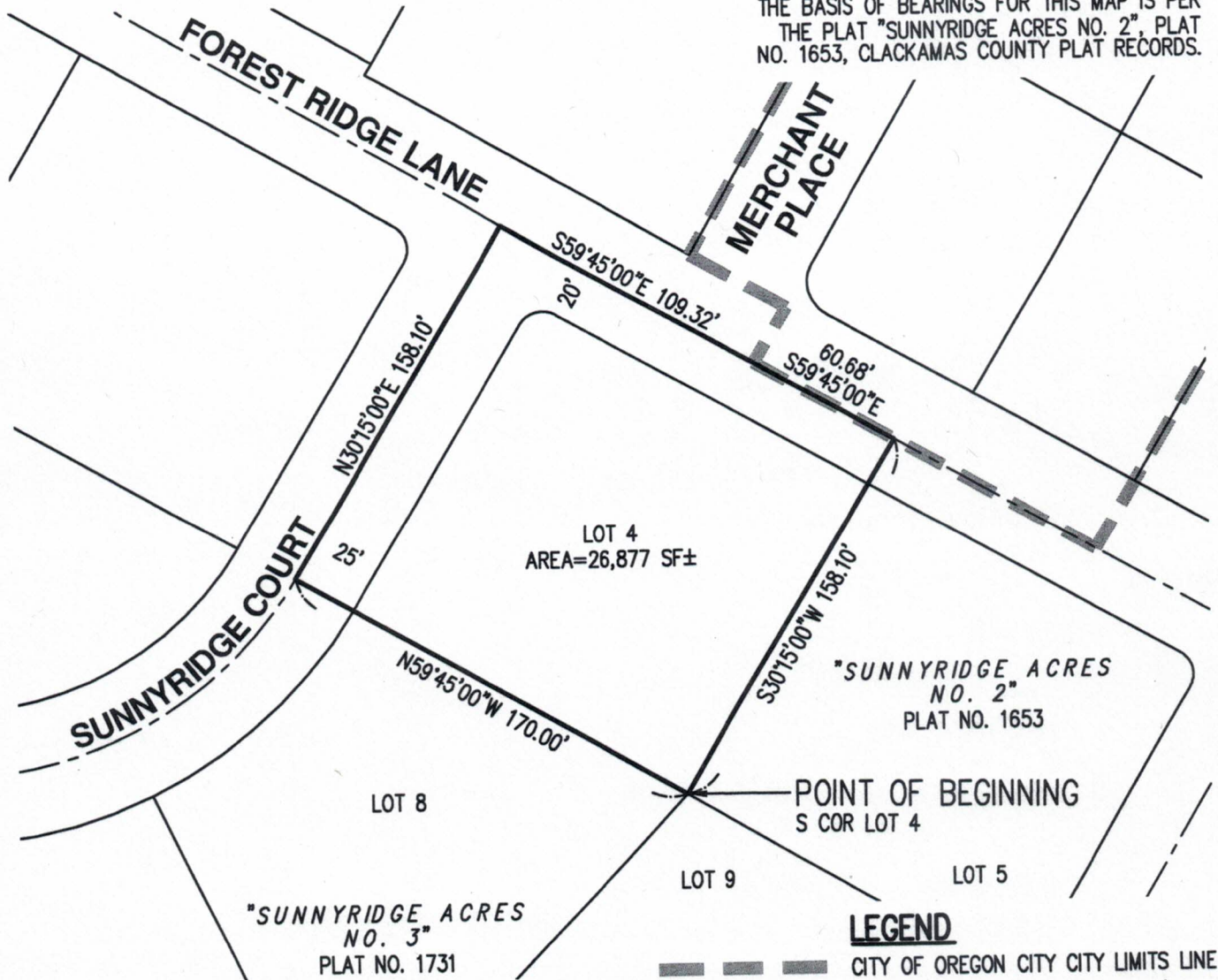
OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/22

EXHIBIT C

LOT 4 OF THE PLAT "SUNNYRIDGE ACRES NO. 2" AND
 A PORTION OF RIGHT-OF-WAY,
 LOCATED IN THE NORTHWEST 1/4 OF SECTION 12,
 TOWNSHIP 3 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
 CLACKAMAS COUNTY, OREGON

THE BASIS OF BEARINGS FOR THIS MAP IS PER
 THE PLAT "SUNNYRIDGE ACRES NO. 2", PLAT
 NO. 1653, CLACKAMAS COUNTY PLAT RECORDS.



3/16/2021

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

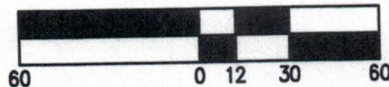
Nick White
 OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS

RENEWS: 6/30/22

PREPARED FOR

CITY OF OREGON CITY
 221 MOLALLA AVENUE, SUITE 200
 OREGON CITY, OR 97045

SCALE: 1" = 60 FEET



DESCRIPTION MAP		EXHIBIT B
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 503.563.6151 WWW.AKS-ENG.COM		DRWN: WCB CHKD: NSW AKS JOB: 3062



August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Consent to Transfer, Assignment, Assumption, and Release Agreement for
85 Causey / Acadia Gardens (HOME loan)

Purpose/ Outcome	Request to transfer \$350,000 HOME loan for 85 Causey / Acadia Gardens from Geller Silvis & Associated, Inc. to Guardian Holding, Inc.
Dollar Amount and Fiscal Impact	No County General Funds are included in this request and no financial impact to the existing HOME loan.
Funding Source	U.S. Department of Housing and Urban Development HOME funding
Duration	The HOME loan was effective in November 24, 2010 with a loan term of 40 years and an affordability period of 20 years beginning on the Project Completion date (6/19/2012).
Previous Board Action/ Review	Board members approved the allocation of these HOME funds at the November 2, 2010 business meeting.
Strategic Plan Alignment	Ensure safe, healthy and secure communities.
County Review	The Consent to Transfer, Assignment, Assumption, and Release Agreement was reviewed and approved by County Counsel AN on July 6, 2021.
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
Contact Person	Pamela Anderson, Manager - Community Development 971/804-3464
Contract No.	H3S #10262

BACKGROUND: The HOME loan documents for this project was approved by the Board of Commissioner November 2, 2010 for the development of 85 Causey/Acadia Gardens, a 41 unit, transit oriented multi-family affordable rental housing project near the Clackamas Town Center. Guardian Holding, Inc. has come to an agreement with Geller, Silvis & Associated, Inc. to purchase the General Partner Interests at 85 Causey / Acadia Gardens in Happy Valley. Guardian has operated the property for a number of years and intends to continue to run the site efficiently while abiding by all HOME requirements as the new General Partner.

PROJECT OVERVIEW: The Community Development Division of the Health, Housing and Human Services Department requests the approval of a Consent to Transfer, Assignment, Assumption, and Release Agreement for the HOME loan on 85 Causey/Acadia Gardens for the purpose of transferring from Geller Silvis & Associated, Inc. to Guardian Holding, Inc.

RECOMMENDATION: We recommend the approval of this Consent to Transfer, Assignment, Assumption, and Release Agreement for 85 Causey/Acadia Gardens HOME loan.

Respectfully submitted,

Rodney Cook, Director
Health, Housing Human Services

Healthy Families. Strong Communities.

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

www.clackamas.us

Contract Transmittal Form

Health, Housing & Human Services Department

H3S Contract #: <u>10262</u> Board Order #: _____	Division: <u>Com. Dev.</u> Contact: <u>Pamela Anderson</u> Program Contact Name: <u>Pamela Anderson</u>	<input type="checkbox"/> Subrecipient <input type="checkbox"/> Revenue <input type="checkbox"/> Amend # _____ \$ _____
<input type="checkbox"/> Non BCC Item <input checked="" type="checkbox"/> BCC Agenda DATE: <u>August 5th, 2021</u>		

CONTRACT WITH: 85 Causey / Acadia Gardens (HOME loan)

CONTRACT AMOUNT: \$350,000

TYPE OF CONTRACT

<input type="checkbox"/> ASC–Agency Service Contract	<input type="checkbox"/> IAA-Interagency Services Agreement
<input type="checkbox"/> CONS-Construction Agreement	<input type="checkbox"/> MEMO-Memo of Understanding/Agreement
<input type="checkbox"/> CO–Change Order	<input type="checkbox"/> PT-Prof., Technical & Personal Services
<input type="checkbox"/> IGA-Intergovernmental Agreement	<input checked="" type="checkbox"/> One Off

DATE RANGE

<input type="checkbox"/> Full Fiscal Year _____	<input type="checkbox"/> 4 or 5 Year _____ - _____
<input checked="" type="checkbox"/> Upon Signature - <u>8/5/21 to 5/30/2053</u>	<input type="checkbox"/> Biennium _____ - _____
<input type="checkbox"/> Other - _____	<input type="checkbox"/> 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: July 6, 2021

OR

This contract is in the format approved by County Counsel as part of the H3S contract standardization project.

SIGNATURE OF DIVISION REPRESENTATIVE: Pamela Anderson
 Date: 7/22/21

H3S Admin Only	Date Received: _____ Date Signed: _____ Date Sent: _____
---------------------------	--

AGREEMENTS/CONTRACTS

New Agreement/Contract
Amendment/Change Order Original Number

ORIGINATING COUNTY DEPARTMENT: Health, Housing and Human Services

PURCHASING FOR: Contracted Services

OTHER PARTY TO CONTRACT/AGREEMENT: n/a

BOARD AGENDA ITEM
NUMBER: _____

DATE: August 5, 2021

PURPOSE OF
CONTRACT/AGREEMENT: Transfer of 85 Causey / Acadia Gardens (HOME loan) from Geller, Silvis & Associated, Inc. to Guardian Holding, Inc.

H3S CONTRACT NUMBER: 10262

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

CLACKAMAS COUNTY, OREGON,

c/o Health, Housing and Human Services; Community Development
2051 Kaen Rd., Suite 245
Oregon City, Oregon 97045
Attention: Manager

**CONSENT TO TRANSFER, ASSIGNMENT, ASSUMPTION, AND RELEASE AGREEMENT
(HOME LOAN - 85 Causey – Transit Oriented Housing Development / Acadia Gardens)**

This Consent to Transfer, Assignment, Assumption and Release Agreement (this “**Assignment**”) dated as of _____, 2021 (the “**Effective Date**”) is executed by and between CAUSEY ASSOCIATES LIMITED PARTNERSHIP, an Oregon limited liability company (“**Assignor**”), GM ACADIA GARDENS, LLC, an Oregon limited liability company (“**Assignee**”), and Clackamas County, a political subdivision of the State of Oregon (the “**County**”).

RECITALS:

A. Assignor is the owner of a multifamily residential apartment project targeted to working families with children (the “**Project**”), located at 8370 SE Causey Avenue, Clackamas, Clackamas County, Oregon, and more particularly described in Exhibit A (the “**Property**”).

B. Assignor and County entered into a Clackamas County HOME Program Loan Agreement dated November 24, 2010, a Promissory Note date March 25, 2011, a Declaration of Land Use Restrictive Covenants dated March 25, 2011 and recorded March 29, 2011 as Recorder’s Number 2011-019158, and a Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing dated March 25, 2011 and recorded March 29, 2011 as Recorder’s Number 2011-019157 (collectively the “**HOME Documents**”).

C. Assignee entered into an Indemnification and Contribution Agreement dated April 30, 2021 and an Assignment and Assumption of Sole Member’s Interests dated April 30, 2021 effective _____, 2021, to acquire, own and operate the Project and the Property from Assignor (the “**Option**”).

D. Assignor transferred the Option to Assignee, who has exercised the Option to acquire, own and operate the Property and the Project.

E. Assignor is willing to assign its rights under the HOME Documents which are incorporated by this reference.

F. Assignee is willing to accept the duties under the HOME Documents.

G. County is willing to consent to the transfer of the Project and the Property and the assignment of the HOME Documents to Assignee.

ASSIGNMENT

NOW, THEREFORE, in consideration of the premises and the promises contained herein, Assignor, Assignee, and County agree as follows:

1. **Recitals.** The recitals are incorporated by reference.
2. **Assignment.** Assignor assigns to Assignee, all right, title and interest of Assignor in and to the HOME Documents.
3. **Assumption.** Assignee assumes all of Assignor's obligations under the HOME Documents.
4. **Consent.** County hereby consents to the transfer of the Property and the Project to Assignee and the Assumption of the HOME Documents by Assignee.
5. **Release.** County hereby releases Assignor from and against any claims, demands, or causes of action arising out of or by virtue of the HOME Documents which are based upon facts or circumstances occurring after the Effective Date. County further agrees that the Assignee shall only be obligated with regard to any claims, demands, or causes of action arising out of or by virtue of the HOME Documents which are based upon facts or circumstances occurring after the Effective Date.
6. **Notice.** After the Effective Date, all notices to be delivered under the HOME Documents to Assignor shall instead delivered to Assignee at the following address:

GM Acadia Gardens, LLC
c/o Guardian Development LLC
760 SW 9th Ave. #2200
Portland, Oregon 97205
Attention: HOME
7. **Counterparts.** This Assignment may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall constitute one and the same instrument.
8. **Governing Law; Venue and Consent to Jurisdiction.** This Assignment shall be governed by the laws of Oregon. Any controversy arising under or in relation to this Assignment shall be litigated exclusively in the Clackamas County Circuit Court.
9. **Severability; Amendments.** The invalidity or unenforceability of any provision of this Assignment shall not affect the validity or enforceability of any other provision of this Assignment, all of which shall remain in full force and effect. This Assignment contains the complete and entire agreement among the parties as to the matters covered, rights granted and the obligations assumed in Consent to Transfer, Assignment, Assumption and Release (85 Causey – Transit Oriented Housing Development / Acadia Gardens) – Page 2

this Assignment. This Assignment may not be amended or modified except by written agreement signed by the parties hereto.

10. Compliance and Further Assurances. Assignee shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. Assignee agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this HOME Documents 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 the HOME Program and HOME Regulations are hereby incorporated by this reference herein.

11. Warrant of Authority. The undersigned represent and warrant they have full authority to execute this Agreement on behalf of the entity for which they are signing.

12. Construction.

- a. The captions and headings of the sections of this Assignment are for convenience only and shall be disregarded in construing this Assignment.
- b. Any reference in this Assignment to an “Exhibit” or “Schedule” or a “Section” or an “Article” shall, unless otherwise explicitly provided, be construed as referring, respectively, to an exhibit or schedule attached to this Assignment or to a Section or Article of this Assignment. All exhibits and schedules attached to or referred to in this Assignment, if any, are incorporated by reference into this Assignment.
- c. Any reference in this Assignment to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time.
- d. Use of the singular in this Assignment includes the plural and use of the plural includes the singular.
- e. As used in this Assignment, the term “including” means “including, but not limited to” or “including, without limitation,” and is for example only and not a limitation.

ASSIGNOR:

Causey Associates Limited Partnership, an Oregon Limited Partnership

By: GELLER PROPERTIES LLC,
an Oregon limited liability company

By: Geller Silvis & Associated, Inc., an Oregon corporation
Its: Managing Member

By: _____

Name: David L. Crawford

Its: Secretary

Address: 8370 SE Causey Ave., Suite B
Portland, OR 97201

STATE OF OREGON)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me this _____ day of _____ 2021 by
_____, as the Managing Member of Geller Properties, LLC, the sole member of
Geller Silvis & Associates, Inc., an Oregon corporation.

Notary Public for Oregon

ASSIGNEE:

GM ACADIA GARDENS LLC,
an Oregon limited liability company

By: GUARDIAN DEVELOPMENT LLC,
an Oregon limited liability company,
Its: Manager,

By: GUARDIAN REAL ESTATE SERVICES, LLC,
an Oregon limited liability company,
Its: Manager,

By: GUARDIAN HOLDING, INC.,
an Oregon corporation,
Its: Manager

By: _____
Name: Thomas B. Brenneke
Its: President

Address: 760 SW 9th Ave. #2200
Portland, OR 97205

STATE OF OREGON)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me this ____ day of _____ 2021 by _____, as _____ of the Guardian Holding, Inc., an Oregon corporation.

Notary Public for Oregon

COUNTY

CLACKAMAS COUNTY, OREGON,
a political subdivision of the State of Oregon

By: _____

Name:

Its:

Address: 2051 Kaen Road,
Oregon City, Oregon 97045

STATE OF OREGON	}	
	}	SS.
County of Clackamas	}	

This instrument was acknowledged before me on _____, 2021 by _____, as the _____, Clackamas County, Oregon, a politic subdivision of the State of Oregon.

Notary Public for Oregon

EXHIBIT A

LEGAL DESCRIPTION

Real property in the County of Clackamas, State of Oregon, described as follows:

PARCEL I:

BEGINNING AT THE NORTHEAST CORNER OF TRACT 16, CAUSEY'S SUBURBAN TRACT NO. 1, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON; THENCE WEST ALONG THE NORTH LINE OF SAID TRACT 16, A DISTANCE OF 100 FEET; THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID TRACT 16, A DISTANCE OF 266.7 FEET TO A POINT ON THE NORTH LINE OF A TRACT OF LAND CONVEYED TO MAUDE MAY ESPEJO, FORMERLY MAUDE MAY MILLARD, RECORDED JULY 26, 1945 IN BOOK 348, PAGE 0328, DEED RECORDS, WHICH POINT IS 266.75 FEET NORTH OF THE SOUTH LINE OF TRACT 16; THENCE EAST ALONG THE NORTH LINE OF SAID ESPEJO TRACT, 100 FEET TO THE EAST LINE OF TRACT 16; THENCE NORTH ALONG SAID EAST LINE 266.7 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION OF THE ABOVE DESCRIBED PARCEL CONVEYED TO CLACKAMAS COUNTY DEVELOPMENT AGENCY BY INSTRUMENT RECORDED JUNE 25, 1982 AS FEE NO. 82017515.

THE LEGAL DESCRIPTION WAS CREATED PRIOR TO JANUARY 01, 2008.

PARCEL II:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF TRACT 16, CAUSEY'S SUBURBAN TRACT NO. 1, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, WHICH IS 100 FEET WESTERLY FROM THE NORTHEASTERLY CORNER OF SAID TRACT 16, 75 FEET TO A POINT; THENCE SOUTHERLY AND PARALLEL WITH THE EASTERLY LINE OF SAID TRACT 16 TO THE SOUTHERLY LINE OF THE NORTHERLY ONE-HALF OF SAID TRACT 16; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF THE NORTHERLY ONE-HALF OF SAID TRACT 16, 75 FEET TO A POINT; THENCE NORTHERLY TO THE POINT OF BEGINNING, SAID NORTHERLY ONE-HALF OF TRACT 16 TO BE DETERMINED BY A LINE 266.75 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE WITH THE SOUTH LINE OF SAID TRACT.

EXCEPTING THEREFROM THE WESTERLY 70 FEET.

THE LEGAL DESCRIPTION WAS CREATED PRIOR TO JANUARY 01, 2008

PARCEL III:

THAT PORTION OF TRACT 16, CAUSY'S SUBURBAN TRACT NO.1, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF SAID TRACT 16, WHICH IS 105 FEET WESTERLY FROM THE NORTHEASTERLY CORNER OF SAID TRACT 16; THENCE WESTERLY ALONG SAID NORTHERLY LINE, 70 FEET TO A POINT; THENCE SOUTHERLY AND PARALLEL WITH THE EASTERLY LINE OF SAID TRACT 16 TO THE SOUTHERLY LINE OF THE NORTHERLY ONE-HALF OF SAID TRACT 16, SAID NORTHERLY ONE-HALF OF TRACT 16 TO BE DETERMINED BY A LINE 266.75 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF SAID TRACT 16; THENCE EASTERLY ALONG SAID SOUTHERLY LINE OF THE NORTHERLY ONE-HALF OF SAID TRACT 16, 70 FEET TO A POINT; THENCE NORTHERLY TO THE POINT OF BEGINNING.

THE LEGAL DESCRIPTION WAS CREATED PRIOR TO JANUARY 01, 2008

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

CLACKAMAS COUNTY, OREGON,

c/o Health, Housing and Human Services; Community Development
2051 Kaen Rd., Suite 245
Oregon City, Oregon 97045
Attention: Manager

**CONSENT TO TRANSFER, ASSIGNMENT, ASSUMPTION, AND RELEASE AGREEMENT
(HOME LOAN - 85 Causey – Transit Oriented Housing Development / Acadia Gardens)**

This Consent to Transfer, Assignment, Assumption and Release Agreement (this “**Assignment**”) dated as of _____, 2021 (the “**Effective Date**”) is executed by and between CAUSEY ASSOCIATES LIMITED PARTNERSHIP, an Oregon limited liability company (“**Assignor**”), GM ACADIA GARDENS, LLC, an Oregon limited liability company (“**Assignee**”), and Clackamas County, a political subdivision of the State of Oregon (the “**County**”).

RECITALS:

A. Assignor is the owner of a multifamily residential apartment project targeted to working families with children (the “**Project**”), located at 8370 SE Causey Avenue, Clackamas, Clackamas County, Oregon, and more particularly described in Exhibit A (the “**Property**”).

B. Assignor and County entered into a Clackamas County HOME Program Loan Agreement dated November 24, 2010, a Promissory Note date March 25, 2011, a Declaration of Land Use Restrictive Covenants dated March 25, 2011 and recorded March 29, 2011 as Recorder’s Number 2011-019158, and a Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing dated March 25, 2011 and recorded March 29, 2011 as Recorder’s Number 2011-019157 (collectively the “**HOME Documents**”).

C. Assignee entered into an Indemnification and Contribution Agreement dated April 30, 2021 and an Assignment and Assumption of Sole Member’s Interests dated April 30, 2021 effective _____, 2021, to acquire, own and operate the Project and the Property from Assignor (the “**Option**”).

D. Assignor transferred the Option to Assignee, who has exercised the Option to acquire, own and operate the Property and the Project.

E. Assignor is willing to assign its rights under the HOME Documents which are incorporated by this reference.

F. Assignee is willing to accept the duties under the HOME Documents.

G. County is willing to consent to the transfer of the Project and the Property and the assignment of the HOME Documents to Assignee.

ASSIGNMENT

NOW, THEREFORE, in consideration of the premises and the promises contained herein, Assignor, Assignee, and County agree as follows:

1. **Recitals.** The recitals are incorporated by reference.
2. **Assignment.** Assignor assigns to Assignee, all right, title and interest of Assignor in and to the HOME Documents.
3. **Assumption.** Assignee assumes all of Assignor's obligations under the HOME Documents.
4. **Consent.** County hereby consents to the transfer of the Property and the Project to Assignee and the Assumption of the HOME Documents by Assignee.
5. **Release.** County hereby releases Assignor from and against any claims, demands, or causes of action arising out of or by virtue of the HOME Documents which are based upon facts or circumstances occurring after the Effective Date. County further agrees that the Assignee shall only be obligated with regard to any claims, demands, or causes of action arising out of or by virtue of the HOME Documents which are based upon facts or circumstances occurring after the Effective Date.
6. **Notice.** After the Effective Date, all notices to be delivered under the HOME Documents to Assignor shall instead delivered to Assignee at the following address:

GM Acadia Gardens, LLC
c/o Guardian Development LLC
760 SW 9th Ave. #2200
Portland, Oregon 97205
Attention: HOME
7. **Counterparts.** This Assignment may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall constitute one and the same instrument.
8. **Governing Law; Venue and Consent to Jurisdiction.** This Assignment shall be governed by the laws of Oregon. Any controversy arising under or in relation to this Assignment shall be litigated exclusively in the Clackamas County Circuit Court.
9. **Severability; Amendments.** The invalidity or unenforceability of any provision of this Assignment shall not affect the validity or enforceability of any other provision of this Assignment, all of which shall remain in full force and effect. This Assignment contains the complete and entire agreement among the parties as to the matters covered, rights granted and the obligations assumed in Consent to Transfer, Assignment, Assumption and Release (85 Causey – Transit Oriented Housing Development / Acadia Gardens) – Page 2

this Assignment. This Assignment may not be amended or modified except by written agreement signed by the parties hereto.

10. Compliance and Further Assurances. Assignee shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. Assignee agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this HOME Documents 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 the HOME Program and HOME Regulations are hereby incorporated by this reference herein.

11. Warrant of Authority. The undersigned represent and warrant they have full authority to execute this Agreement on behalf of the entity for which they are signing.

12. Construction.


- a. The captions and headings of the sections of this Assignment are for convenience only and shall be disregarded in construing this Assignment.
- b. Any reference in this Assignment to an "Exhibit" or "Schedule" or a "Section" or an "Article" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an exhibit or schedule attached to this Assignment or to a Section or Article of this Assignment. All exhibits and schedules attached to or referred to in this Assignment, if any, are incorporated by reference into this Assignment.
- c. Any reference in this Assignment to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time.
- d. Use of the singular in this Assignment includes the plural and use of the plural includes the singular.
- e. As used in this Assignment, the term "including" means "including, but not limited to" or "including, without limitation," and is for example only and not a limitation.

ASSIGNOR:

Causey Associates Limited Partnership, an Oregon Limited Partnership

By: GELLER PROPERTIES LLC,
an Oregon limited liability company

By: Geller Silvis & Associated, Inc., an Oregon corporation
Its: Managing Member

By: 
Name: David L. Crawford
Its: Secretary

Address: 8370 SE Causey Ave., Suite B
Portland, OR 97201

STATE OF OREGON)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me this _____ day of _____ 2021 by _____, as the Managing Member of Geller Properties, LLC, the sole member of Geller Silvis & Associates, Inc., an Oregon corporation.

Notary Public for Oregon

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of San Diego)

On July 8th 2021 before me, Ash Nickle, Notary Public

Date

Here Insert Name and Title of the Officer

personally appeared David L. Crawford

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature _____

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Consent to Transfer, Assignment, Assumption, & Release Agreement

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

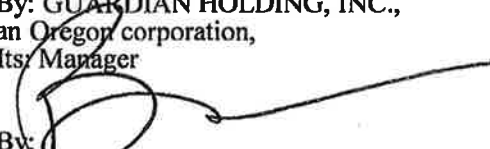
ASSIGNEE:

GM ACADIA GARDENS LLC,
an Oregon limited liability company

By: GUARDIAN DEVELOPMENT LLC,
an Oregon limited liability company,
Its: Manager,

By: GUARDIAN REAL ESTATE SERVICES, LLC,
an Oregon limited liability company,
Its: Manager,

By: GUARDIAN HOLDING, INC.,
an Oregon corporation,
Its: Manager

By: 
Name: Thomas B. Brenneke
Its: President

Address: 760 SW 9th Ave. #2200
Portland, OR 97205

STATE OF OREGON)
) ss.
COUNTY OF Multnomah)

This instrument was acknowledged before me this 6th day of July 2021 by
Thomas B. Brenneke, as Manager of the Guardian Holding, Inc., an Oregon corporation.





Notary Public for Oregon

EXHIBIT A

LEGAL DESCRIPTION

Real property in the County of Clackamas, State of Oregon, described as follows:

PARCEL I:

BEGINNING AT THE NORTHEAST CORNER OF TRACT 16, CAUSEY'S SUBURBAN TRACT NO. 1, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON; THENCE WEST ALONG THE NORTH LINE OF SAID TRACT 16, A DISTANCE OF 100 FEET; THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID TRACT 16, A DISTANCE OF 266.7 FEET TO A POINT ON THE NORTH LINE OF A TRACT OF LAND CONVEYED TO MAUDE MAY ESPEJO, FORMERLY MAUDE MAY MILLARD, RECORDED JULY 26, 1945 IN BOOK 348, PAGE 0328, DEED RECORDS, WHICH POINT IS 266.75 FEET NORTH OF THE SOUTH LINE OF TRACT 16; THENCE EAST ALONG THE NORTH LINE OF SAID ESPEJO TRACT, 100 FEET TO THE EAST LINE OF TRACT 16; THENCE NORTH ALONG SAID EAST LINE 266.7 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION OF THE ABOVE DESCRIBED PARCEL CONVEYED TO CLACKAMAS COUNTY DEVELOPMENT AGENCY BY INSTRUMENT RECORDED JUNE 25, 1982 AS FEE NO. 82017515.

THE LEGAL DESCRIPTION WAS CREATED PRIOR TO JANUARY 01, 2008.

PARCEL II:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF TRACT 16, CAUSEY'S SUBURBAN TRACT NO. 1, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, WHICH IS 100 FEET WESTERLY FROM THE NORTHEASTERLY CORNER OF SAID TRACT 16, 75 FEET TO A POINT; THENCE SOUTHERLY AND PARALLEL WITH THE EASTERLY LINE OF SAID TRACT 16 TO THE SOUTHERLY LINE OF THE NORTHERLY ONE-HALF OF SAID TRACT 16; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF THE NORTHERLY ONE-HALF OF SAID TRACT 16, 75 FEET TO A POINT; THENCE NORTHERLY TO THE POINT OF BEGINNING, SAID NORTHERLY ONE-HALF OF TRACT 16 TO BE DETERMINED BY A LINE 266.75 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE WITH THE SOUTH LINE OF SAID TRACT.

EXCEPTING THEREFROM THE WESTERLY 70 FEET.

THE LEGAL DESCRIPTION WAS CREATED PRIOR TO JANUARY 01, 2008

PARCEL III:

THAT PORTION OF TRACT 16, CAUSY'S SUBURBAN TRACT NO.1, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF SAID TRACT 16, WHICH IS 105 FEET WESTERLY FROM THE NORTHEASTERLY CORNER OF SAID TRACT 16; THENCE WESTERLY ALONG SAID NORTHERLY LINE, 70 FEET TO A POINT; THENCE SOUTHERLY AND PARALLEL WITH THE EASTERLY LINE OF SAID TRACT 16 TO THE SOUTHERLY LINE OF THE NORTHERLY ONE-HALF OF SAID TRACT 16, SAID NORTHERLY ONE-HALF OF TRACT 16 TO BE DETERMINED BY A LINE 266.75 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF SAID TRACT 16; THENCE EASTERLY ALONG SAID SOUTHERLY LINE OF THE NORTHERLY ONE-HALF OF SAID TRACT 16, 70 FEET TO A POINT; THENCE NORTHERLY TO THE POINT OF BEGINNING.

THE LEGAL DESCRIPTION WAS CREATED PRIOR TO JANUARY 01, 2008

Consent to Transfer, Assignment, Assumption and Release (85 Causey – Transit Oriented Housing Development / Acadia Gardens) – Page 7

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Consent to Transfer, Assignment, Assumption, and Release Agreement for
Town Center Station (HOME loan)

Purpose/ Outcome	Request to transfer \$335,000 HOME loan for Town Center Station from Geller Silvis & Associated, Inc. to Guardian Holding, Inc.
Dollar Amount and Fiscal Impact	No County General Funds are included in this request and no financial impact to the existing HOME loan.
Funding Source	U.S. Department of Housing and Urban Development HOME funding
Duration	The HOME loan was effective in July 31, 2008 with a loan term of 50 years and an affordability period of 20 years beginning on the Project Completion date (01/11/2011).
Previous Board Action/ Review	Board members approved the allocation of these HOME funds on July 31, 2008.
Strategic Plan Alignment	Ensure safe, healthy and secure communities.
County Review	The Consent to Transfer, Assignment, Assumption, and Release Agreement was reviewed and approved by County Counsel AN on July 6, 2021.
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
Contact Person	Pamela Anderson, Manager - Community Development 971/804-3464
Contract No.	H3S #10263

BACKGROUND: The HOME loan documents for this project was approved by the Board of Commissioner July 31, 2008 for the development of Town Center Station, a 52 unit, transit oriented affordable workforce housing project. Guardian Holding, Inc. has come to an agreement with Geller, Silvis & Associated, Inc. to purchase the General Partner Interests at Town Center Station in Happy Valley. Guardian has operated the property for a number of years and intends to continue to run the site efficiently while abiding by all HOME requirements as the new General Partner.

PROJECT OVERVIEW: The Community Development Division of the Health, Housing and Human Services Department requests the approval of a Consent to Transfer, Assignment, Assumption, and Release Agreement for the HOME loan on Town Center Station for the purpose of transferring from Geller Silvis & Associated, Inc. to Guardian Holding, Inc.

RECOMMENDATION: We recommend the approval of this Consent to Transfer, Assignment, Assumption, and Release Agreement for Town Center Station (HOME loan).

Respectfully submitted,

Rodney Cook, Director
Health, Housing Human Services

Healthy Families. Strong Communities.

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

www.clackamas.us

Contract Transmittal Form

Health, Housing & Human Services Department

H3S Contract #: <u>10263</u> Board Order #: _____	Division: <u>Com. Dev.</u> Contact: <u>Pamela Anderson</u> Program Contact Name: <u>Pamela Anderson</u>	<input type="checkbox"/> Subrecipient <input type="checkbox"/> Revenue <input type="checkbox"/> Amend # _____ \$ _____
<input type="checkbox"/> Non BCC Item <input checked="" type="checkbox"/> BCC Agenda DATE: <u>August 5th, 2021</u>		

CONTRACT WITH: Town Center Station (HOME loan)

CONTRACT AMOUNT: \$335,000

TYPE OF CONTRACT

<input type="checkbox"/> ASC–Agency Service Contract	<input type="checkbox"/> IAA-Interagency Services Agreement
<input type="checkbox"/> CONS-Construction Agreement	<input type="checkbox"/> MEMO-Memo of Understanding/Agreement
<input type="checkbox"/> CO–Change Order	<input type="checkbox"/> PT-Prof., Technical & Personal Services
<input type="checkbox"/> IGA-Intergovernmental Agreement	<input checked="" type="checkbox"/> One Off

DATE RANGE

<input type="checkbox"/> Full Fiscal Year _____	<input type="checkbox"/> 4 or 5 Year _____ - _____
<input checked="" type="checkbox"/> Upon Signature - <u>8/5/21 to 5/30/2051</u>	<input type="checkbox"/> Biennium _____ - _____
<input type="checkbox"/> Other - _____	<input type="checkbox"/> 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: July 6, 2021

OR

This contract is in the format approved by County Counsel as part of the H3S contract standardization project.

SIGNATURE OF DIVISION REPRESENTATIVE: Pamela Anderson
 Date: 7/12/21

H3S Admin Only	Date Received: _____ Date Signed: _____ Date Sent: _____
---------------------------	--

AGREEMENTS/CONTRACTS

New Agreement/Contract
Amendment/Change Order Original Number

ORIGINATING COUNTY DEPARTMENT: Health, Housing and Human Services

PURCHASING FOR: Contracted Services

OTHER PARTY TO CONTRACT/AGREEMENT: n/a

BOARD AGENDA ITEM
NUMBER: _____

DATE: August 5, 2021

PURPOSE OF
CONTRACT/AGREEMENT: Transfer of Town Center Station (HOME loan) from Geller, Silvis & Associated, Inc. to Guardian Holding, Inc.

H3S CONTRACT NUMBER: 10263

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

CLACKAMAS COUNTY, OREGON,
c/o Health, Housing and Human Services; Community Development
2051 Kaen Rd., Suite 245
Oregon City, Oregon 97045
Attention: Manager

**CONSENT TO TRANSFER, ASSIGNMENT, ASSUMPTION, AND RELEASE
AGREEMENT
(HOME LOAN – Town Center Station)**

This Consent to Transfer, Assignment, Assumption and Release Agreement (this “Assignment”) dated as of _____, 2021 (the “Effective Date”) is executed by and between TOWN CENTER ASSOCIATES LIMITED PARTNERSHIP, an Oregon limited liability company (“Assignor”), GM TOWN CENTER STATION, LLC, an Oregon limited liability company (“Assignee”), and Clackamas County, a political subdivision of the State of Oregon (the “County”).

RECITALS:

A. Assignor is the owner of a multifamily residential apartment project targeted to working families with children (the “Project”), located at 8719 S.E. Monterey Ave., Happy Valley, Clackamas County, Oregon, and more particularly described in Exhibit A (the “Property”).

B. Assignor and County entered into a Clackamas County HOME Program Loan Agreement dated July 31, 2008, an Amendment to HOME Loan Agreement dated May 27, 2009, a Promissory Note dated May 27, 2009, a Declaration of Land Use Restrictive Covenants dated May 27, 2009, and recorded May 27, 2009 as Recorder’s Number 2009-036893, and a Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing dated May 27, 2009 and recorded May 27, 2009 as Recorder’s Number 2009-036892 (collectively the “HOME Documents”).

C. Assignee entered into an Indemnification and Contribution Agreement dated April 30, 2021 and an Assignment and Assumption of Sole Member’s Interests dated April 30, 2021 effective _____, 2021, to acquire, own and operate the Project and the Property from Assignor (the “Option”).

D. Assignor transferred the Option to Assignee, who has exercised the Option to acquire, own and operate the Property and the Project.

Consent to Transfer, Assignment, Assumption and Release (Town Center Associates LP) – Page

E. Assignor is willing to assign its rights under the HOME Documents which are incorporated by this reference.

F. Assignee is willing to accept the duties under the HOME Documents.

G. County is willing to consent to the transfer of the Project and the Property and the assignment of the HOME Documents to Assignee.

ASSIGNMENT

NOW, THEREFORE, in consideration of the premises and the promises contained herein, Assignor, Assignee, and County agree as follows:

1. **Recitals.** The recitals are incorporated by reference.
2. **Assignment.** Assignor assigns to Assignee, all right, title and interest of Assignor in and to the HOME Documents.
3. **Assumption.** Assignee assumes all of Assignor's obligations under the HOME Documents.
4. **Consent.** County hereby consents to the transfer of the Property and the Project to Assignee and the Assumption of the HOME Documents by Assignee.
5. **Release.** County hereby releases Assignor from and against any claims, demands, or causes of action arising out of or by virtue of the HOME Documents which are based upon facts or circumstances occurring after the Effective Date. County further agrees that the Assignee shall only be obligated with regard to any claims, demands, or causes of action arising out of or by virtue of the HOME Documents which are based upon facts or circumstances occurring after the Effective Date.
6. **Notice.** After the Effective Date, all notices to be delivered under the HOME Documents to Assignor shall instead delivered to Assignee at the following address:

GM Town Center Station, LLC
c/o Guardian Development LLC
760 SW 9th Ave. #2200
Portland, OR 97205
Attention: HOME
7. **Counterparts.** This Assignment may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall constitute one and the same instrument.
8. **Governing Law; Venue and Consent to Jurisdiction.** This Assignment shall be governed by the laws of Oregon. Any controversy arising under or in relation to this Assignment shall be litigated exclusively in the Clackamas County Circuit Court.
9. **Severability; Amendments.** The invalidity or unenforceability of any provision of this Assignment shall not affect the validity or enforceability of any other provision of this Assignment, all of which shall remain in full force and effect. This Assignment contains the

complete and entire agreement among the parties as to the matters covered, rights granted and the obligations assumed in this Assignment. This Assignment may not be amended or modified except by written agreement signed by the parties hereto.

10. Compliance and Further Assurances. Assignee shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. Assignee agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this HOME Documents 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 the HOME Program and HOME Regulations are hereby incorporated by this reference herein.

11. Warrant of Authority. The undersigned represent and warrant they have full authority to execute this Agreement on behalf of the entity for which they are signing

12. Construction.

- (a) The captions and headings of the sections of this Assignment are for convenience only and shall be disregarded in construing this Assignment.
- (b) Any reference in this Assignment to an "Exhibit" or "Schedule" or a "Section" or an "Article" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an exhibit or schedule attached to this Assignment or to a Section or Article of this Assignment. All exhibits and schedules attached to or referred to in this Assignment, if any, are incorporated by reference into this Assignment.
- (c) Any reference in this Assignment to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time.
- (d) Use of the singular in this Assignment includes the plural and use of the plural includes the singular.
- (e) As used in this Assignment, the term "including" means "including, but not limited to" or "including, without limitation," and is for example only and not a limitation.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

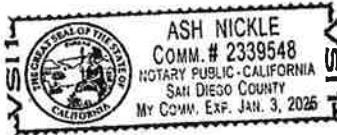
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Diego)
On July 8th 2021 before me, Ash Nickle, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared David L. Crawford
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Consent to Transfer, Assignment, Assumption + Release Agmt
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

ASSIGNEE:

GM TOWN CENTER STATION LLC,
an Oregon limited liability company

By: **GUARDIAN DEVELOPMENT LLC,**
an Oregon limited liability company,
Its: Manager,

By: **GUARDIAN REAL ESTATE SERVICES, LLC,**
an Oregon limited liability company,
Its: Manager,

By: **GUARDIAN HOLDING, INC.,**
an Oregon corporation,
Its: Manager

By: _____
Name: **Thomas B. Brenneke**
Its: **President**

Address: **760 SW 9th Ave. #2200**
Portland, OR 97205

STATE OF OREGON)
) ss.
COUNTY OF Multnomah)

This instrument was acknowledged before me this 6th day of July 2021 by Thomas B. Brenneke, as Manager of the Guardian Holding, Inc., an Oregon corporation.

Sheila Robertson
Notary Public for Oregon



COUNTY

CLACKAMAS COUNTY, OREGON,
a political subdivision of the State of Oregon

By: _____

Name:

Its:

Address: 2051 Kaen Road,
Oregon City, Oregon 97045

STATE OF OREGON

}

}

SS.

County of Clackamas

}

This instrument was acknowledged before me on _____, 2021 by _____
_____, as the _____, Clackamas County, Oregon, a politic subdivision
of the State of Oregon.

Notary Public for Oregon

EXHIBIT A

LEGAL DESCRIPTION

Real property in the County of Clackamas, State of Oregon, described as follows:

LOTS 16 AND 17, BLOCK 1, MONTEREY MEADOWS IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON.

EXCEPTING THEREFROM THE SOUTH 5 FEET CONVEYED TO CLACKAMAS COUNTY FOR RIGHT-OF-WAY PURPOSES BY DEED RECORDED DECEMBER 13, 1982 AS FEE NO. 82-33881.

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Consent to Transfer, Assignment, Assumption, and Release Agreement for
Mt. Scott Terrace Apartments (HOME loan)

Purpose/ Outcome	Request to transfer \$450,000 HOME loan for Mt. Scott Terrace from Geller Silvis & Associated, Inc. to Guardian Holding, Inc.
Dollar Amount and Fiscal Impact	No County General Funds are included in this request and no financial impact to the existing HOME loan.
Funding Source	U.S. Department of Housing and Urban Development HOME funding
Duration	The HOME loan was effective May 27, 2004 with a loan term of 30 years from and an affordability period of 20 years beginning on the Project Completion date (06/30/2006).
Previous Board Action/ Review	Board members approved the allocation of these HOME funds on May 27, 2004.
Strategic Plan Alignment	Ensure safe, healthy and secure communities.
County Review	The Consent to Transfer, Assignment, Assumption, and Release Agreement was reviewed and approved by County Counsel AN on July 6, 2021.
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
Contact Person	Pamela Anderson, Manager - Community Development: 971/804-3464
Contract No.	H3S #10261

BACKGROUND: The HOME loan documents for this project was approved by the Board of Commissioner May 27, 2004 for the construction of Mt. Scott Terrace Apartments, a multi-family rental project consisting of 52 newly constructed two and three bedroom units targeted to working families. Guardian Holding, Inc. has come to an agreement with Geller, Silvis & Associated, Inc. to purchase the General Partner Interests at Mt. Scott Terrace in Portland. Guardian has operated the property for a number of years and intends to continue to run the site efficiently while abiding by all HOME requirements as the new General Partner.

PROJECT OVERVIEW: The Community Development Division of the Health, Housing and Human Services Department requests the approval of a Consent to Transfer, Assignment, Assumption, and Release Agreement for the HOME loan on Mt. Scott Terrace for the purpose of transferring from Geller Silvis & Associated, Inc. to Guardian Holding, Inc.

RECOMMENDATION: We recommend the approval of this Consent to Transfer, Assignment, Assumption, and Release Agreement for Mt. Scott Terrace HOME loan.

Respectfully submitted,

Rodney Cook, Director
Health, Housing Human Services

Healthy Families. Strong Communities.

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

www.clackamas.us

Contract Transmittal Form

Health, Housing & Human Services Department

H3S Contract #: <u>10261</u> Board Order #: _____	Division: <u>Com. Dev.</u> Contact: <u>Pamela Anderson</u> Program Contact Name: <u>Pamela Anderson</u>	<input type="checkbox"/> Subrecipient <input type="checkbox"/> Revenue <input type="checkbox"/> Amend # _____ \$ _____
--	---	---

Non BCC Item
 BCC Agenda
DATE: August 5th, 2021

CONTRACT WITH: Mt. Scott Terrace (HOME loan)

CONTRACT AMOUNT: \$450,000

TYPE OF CONTRACT

<input type="checkbox"/> ASC–Agency Service Contract	<input type="checkbox"/> IAA-Interagency Services Agreement
<input type="checkbox"/> CONS-Construction Agreement	<input type="checkbox"/> MEMO-Memo of Understanding/Agreement
<input type="checkbox"/> CO–Change Order	<input type="checkbox"/> PT-Prof., Technical & Personal Services
<input type="checkbox"/> IGA-Intergovernmental Agreement	<input checked="" type="checkbox"/> One Off

DATE RANGE

<input type="checkbox"/> Full Fiscal Year _____	<input type="checkbox"/> 4 or 5 Year _____ - _____
<input checked="" type="checkbox"/> Upon Signature - <u>8/5/21 to 5/30/2035</u>	<input type="checkbox"/> Biennium _____ - _____
<input type="checkbox"/> Other - _____	<input type="checkbox"/> 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: July 6, 2021

OR

This contract is in the format approved by County Counsel as part of the H3S contract standardization project.

SIGNATURE OF DIVISION REPRESENTATIVE: Pamela Anderson

Date: 7/12/21

H3S Admin Only	Date Received: _____ Date Signed: _____ Date Sent: _____
---------------------------	--

AGREEMENTS/CONTRACTS

New Agreement/Contract
Amendment/Change Order Original Number

ORIGINATING COUNTY DEPARTMENT: Health, Housing and Human Services

PURCHASING FOR: Contracted Services

OTHER PARTY TO CONTRACT/AGREEMENT: n/a

BOARD AGENDA ITEM
NUMBER: _____

DATE: August 5, 2021

PURPOSE OF
CONTRACT/AGREEMENT: Transfer of Mt. Scott Terrace from Geller, Silvis & Associated, Inc. to Guardian Holding, Inc.

H3S CONTRACT NUMBER: 10261

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

CLACKAMAS COUNTY, OREGON,

c/o Health, Housing and Human Services; Community Development
2051 Kaen Rd., Suite 245
Oregon City, Oregon 97045
Attention: Manager

**CONSENT TO TRANSFER, ASSIGNMENT, ASSUMPTION, AND RELEASE
AGREEMENT
(HOME LOAN – Mt. Scott Terrace Apartments)**

This Consent to Transfer, Assignment, Assumption and Release Agreement (this “Assignment”) dated as of _____, 2021 (the “Effective Date”) is executed by and between MT. SCOTT ASSOCIATES LIMITED PARTNERSHIP, an Oregon limited liability company (“Assignor”), GM MT. SCOTT TERRACE, LLC, an Oregon limited liability company (“Assignee”), and Clackamas County, a political subdivision of the State of Oregon (the “County”).

RECITALS:

A. Assignor is the owner of a multifamily residential apartment project targeted to working families with children (the “Project”), located at 10125 SE Bob Schumacher Rd., Happy Valley, Clackamas County, Oregon, and more particularly described in Exhibit A (the “Property”).

B. Assignor and County entered into a Clackamas County HOME Program Loan Agreement dated May 27, 2004, an Amendment to HOME Loan Agreement dated April 28, 2005, a Promissory Note dated September 2, 2004, a modified Promissory Note of May 9, 2005, a Declaration of Land Use Restrictive Covenants dated September 2, 2004 and recorded September 3, 2004 as Recorder’s Number 2004-082773, a modified Declaration of Land Use Restrictive Covenants dated September 2, 2004 and recorded May 13, 2005 as Recorder’s Number 2005-043649, a second modification of the Declaration of Land Use Restrictive Covenants dated January 16, 2007 and recorded January 17, 2007 as Recorder’s Number 2007-003798, and a Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing dated September 2, 2004 and recorded September 3, 2004 as Recorder’s Number 2004-082774 and a modified Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing dated May 9, 2005 and recorded May 13, 2005 as Recorder’s Number 2005-043650 (collectively the “HOME Documents”).

C. Assignee entered into an Indemnification and Contribution Agreement dated April 30, 2021 and an Assignment and Assumption of Sole Member's Interests dated April 30, 2021 effective _____, 2021, to acquire, own and operate the Project and the Property from Assignor (the "**Option**").

D. Assignor transferred the Option to Assignee, who has exercised the Option to acquire, own and operate the Property and the Project.

E. Assignor is willing to assign its rights under the HOME Documents which are incorporated by this reference.

F. Assignee is willing to accept the duties under the HOME Documents.

G. County is willing to consent to the transfer of the Project and the Property and the assignment of the HOME Documents to Assignee.

ASSIGNMENT

NOW, THEREFORE, in consideration of the premises and the promises contained herein, Assignor, Assignee, and County agree as follows:

1. **Recitals.** The recitals are incorporated by reference.
2. **Assignment.** Assignor assigns to Assignee, all right, title and interest of Assignor in and to the HOME Documents.
3. **Assumption.** Assignee assumes all of Assignor's obligations under the HOME Documents.
4. **Consent.** County hereby consents to the transfer of the Property and the Project to Assignee and the Assumption of the HOME Documents by Assignee.
5. **Release.** County hereby releases Assignor from and against any claims, demands, or causes of action arising out of or by virtue of the HOME Documents which are based upon facts or circumstances occurring after the Effective Date. County further agrees that the Assignee shall only be obligated with regard to any claims, demands, or causes of action arising out of or by virtue of the HOME Documents which are based upon facts or circumstances occurring after the Effective Date.
6. **Notice.** After the Effective Date, all notices to be delivered under the HOME Documents to Assignor shall instead delivered to Assignee at the following address:

GM Mt. Scott Terrace, LLC
c/o Guardian Development LLC
760 SW (th Ave. #2200 Portland, OR 97205
Attention: HOME

7. **Counterparts.** This Assignment may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall constitute one and the same instrument.

8. **Governing Law; Venue and Consent to Jurisdiction.** This Assignment shall be governed by the laws of Oregon. Any controversy arising under or in relation to this Assignment shall be litigated exclusively in the Clackamas County Circuit Court.

9. **Severability; Amendments.** The invalidity or unenforceability of any provision of this Assignment shall not affect the validity or enforceability of any other provision of this Assignment, all of which shall remain in full force and effect. This Assignment contains the complete and entire agreement among the parties as to the matters covered, rights granted and the obligations assumed in this Assignment. This Assignment may not be amended or modified except by written agreement signed by the parties hereto.

10. **Compliance and Further Assurances.** Assignee shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. Assignee agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this HOME Documents 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 the HOME Program and HOME Regulations are hereby incorporated by this reference herein.

11. **Warrant of Authority.** The undersigned represent and warrant they have full authority to execute this Agreement on behalf of the entity for which they are signing.

12. **Construction.**

(a) The captions and headings of the sections of this Assignment are for convenience only and shall be disregarded in construing this Assignment.

(b) Any reference in this Assignment to an "Exhibit" or "Schedule" or a "Section" or an "Article" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an exhibit or schedule attached to this Assignment or to a Section or Article of this Assignment. All exhibits and schedules attached to or referred to in this Assignment, if any, are incorporated by reference into this Assignment.

(c) Any reference in this Assignment to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time.

(d) Use of the singular in this Assignment includes the plural and use of the plural includes the singular.

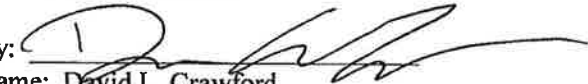
(e) As used in this Assignment, the term "including" means "including, but not limited to" or "including, without limitation," and is for example only and not a limitation.

ASSIGNOR:

Mt. Scott Associates Limited Partnership, an Oregon Limited Partnership

By: GELLER PROPERTIES LLC,
an Oregon limited liability company

By: Geller Silvis & Associates, Inc., an Oregon corporation
Its: Managing Member

By: 
Name: David L. Crawford
Its: Secretary

Address: 8370 SE Causey Ave., Suite B
Portland, OR 97201

STATE OF OREGON)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me this _____ day of _____ 2021 by _____, as the Managing Member of Geller Properties, LLC, the sole member of Geller Silvis & Associates, Inc., an Oregon corporation.

Notary Public for Oregon

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Diego)
On July 8th 2021 before me, Ash Nickle, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared David L. Crawford
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Consent to Transfer, Assignment, Assumption + Release Agrmt
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

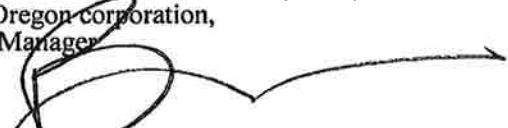
ASSIGNEE:

GM MT. SCOTT TERRACE LLC,
an Oregon limited liability company

By: GUARDIAN DEVELOPMENT LLC,
an Oregon limited liability company,
Its: Manager,

By: GUARDIAN REAL ESTATE SERVICES, LLC,
an Oregon limited liability company,
Its: Manager,

By: GUARDIAN HOLDING, INC.,
an Oregon corporation,
Its: Manager


By: 
Name: Thomas B. Brenneke
Its: President

Address: 760 SW 9th Ave. #2200
Portland, OR 97205

STATE OF OREGON)
) ss.
COUNTY OF Multnomah)

This instrument was acknowledged before me this 6th day of July 2021 by Thomas B. Brenneke, as Manager of the Guardian Holding, Inc., an Oregon corporation.

Notary Public for Oregon





COUNTY

CLACKAMAS COUNTY, OREGON,
a political subdivision of the State of Oregon

By: _____

Name:

Its:

Address: 2051 Kaen Road,
Oregon City, Oregon 97045

STATE OF OREGON

}
}
}

SS.

County of Clackamas

This instrument was acknowledged before me on _____, 2021 by _____
_____, as the _____, Clackamas County, Oregon, a politic subdivision of the
State of Oregon.

Notary Public for Oregon

EXHIBIT A

LEGAL DESCRIPTION

PARCEL I:

The East 20 rods of:

A part of Section 28, Township 1 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as:

Beginning at the Southeast corner of Lot 2 of said section, being the Southeast corner of the Samuel W. McMahan Homestead, Notification No. 5746; thence West, on the South line of said Lot 2, 40 rods; thence North 40 rods; thence East 40 rods to the quarter section line; thence South 40 rods to the place of beginning.

EXCEPTING THERFROM a strip of land along the North end of said premises 150 feet in width, to be cut off by a line parallel with and 150 feet South of the South line of Otty Road as it existed on September 15, 1999.

ALSO EXCEPTING THERFROM those portions thereof lying North of the South line of the land conveyed to Clackamas County Development Agency, a political subdivision of the State of Oregon, by Warranty Deed recorded December 23, 1999 as Fee No. 99-117404.

PARCELL II:

A part of Section 28, Township 1 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the Southeast corner of Lot 2 of said section being the Southeast corner of the Samuel W. McMahan Homestead Notification No. 5746; thence West 330.00 feet to a ½ inch pipe in the South line of said Lot 2; thence North 485.8 feet to a ½ inch pipe which is also the Northwest corner of that certain parcel conveyed by Bertha C. Bohlman to William E. England, et. ux. by deed recorded October 29, 1952 in Book 462, page 209, Deed Records, and the true place of beginning; thence continuing North 170.00 feet to the center of Otty Road; thence East along the center of Otty Road to an intersection with the center of SE 92nd Avenue marked by a 1 inch pipe; thence South 170.00 feet along the center of SE 92nd Avenue to the northeast corner of the said England tract; thence West 330.00 feet to the true place of beginning.

EXCEPTING THERFROM that portion lying North of the South line of the land conveyed to Clackamas County Development Agency, a political subdivision of the State of Oregon, by Warranty Deed recorded December 23, 1999, Fee No. 99-117404.

August 5, 2021

Board of County Commissioners
 Clackamas County

Members of the Board:

Authorization to Sign HUD Grant Award Document for 2020-2021 Continuum of Care (CoC)
Program Funds

Purpose/ Outcome	Request approval and signature for HUD CoC grant agreement for eight (8) Clackamas County programs.
Dollar Amount and Fiscal Impact	Total Clackamas County HUD CoC grant funding: \$1,276,308 \$74,587 of County General Funds are budgeted as match for Housing our Heroes project, otherwise no additional County General funds are involved for the other seven HUD CoC projects.
Funding Source	U.S. Department of Housing & Urban Development (HUD)
Duration	Program years vary per individual program, most are July 1 st to June 30 th .
Previous Board Action/ Review	BCC Agenda Item #A.1 dated 8/1/2019 Approval of Application. No 2020 CoC NOFA was released by HUD due to Covid-19. Projects were automatically renewed without additional notice of funding availability/application process.
Strategic Plan Alignment	1. Ensure safe, healthy and secure communities
County Review	June 29, 2021 Andrew Naylor
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
Contact Person	Pamela Anderson & Erika Silver
Contract No.	TBD

BACKGROUND: The Community Development Division of the Health, Housing and Human Services Department requests the BCC approval of the attached single grant award document with the U.S. Department of Housing and Urban Development for Continuum of Care Program funding. The Continuum of Care is a HUD-mandated administrative and organizational local response to homelessness. A Notice of Funding Opportunity (NOFA) was not released this year by HUD, due to Covid-19. All projects were automatically renewed. One grant agreement (attached) was sent for the eight Clackamas County programs totaling \$1,276,308.

PROJECT OVERVIEW: The HUD CoC grant agreement funding supports the following programs for Clackamas County:

- Two (2) Clackamas County Community Development (CCCD) Division projects –

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www.clackamas.us

- CoC Homeless Management Information System (HMIS) - \$70,862 for program year 7/1/21-6/30/22; this system is required by HUD to collect and review data on programs that serve people that are homeless.
- CoC Planning - \$81,054 for program year 10/1/21-9/30/22; strategically plan for homeless services, facilitate the Continuum of Care work/meetings, and lead efforts for the annual application for HUD CoC funding (NOFA).
- Six (6) Clackamas County Social Services (CCSS) Division projects -
 - Coordinated Housing Access - \$31,928 for program year 7/1/21-6/30/22; the starting point for housing and support services including housing referrals, resources and problem solving;
 - CCSSD programming that provides essential housing and support services to houseless or formally houseless families with the following programs:
 - HOPE Leasing - \$308,569 for program year 7/1/21-6/30/22;
 - HOPE 2 - \$83,313 for program year 1/1/22-12/31/22;
 - Rent Well Rapid Rehousing (RRH) - \$131,113 for program year 7/1/21-6/30/22;
 - Housing our Heroes - \$378,345 for program year 7/1/21-6/30/22; &
 - Housing our Families Rapid Rehousing (RRH) - \$191,104 for program year 10/1/21-9/30/22.

RECOMMENDATION: We recommend Board approval and signing of this HUD CoC Grant Agreement with Clackamas County.

Respectfully submitted,

Rodney Cook, Interim Director
Health, Housing and Human Services Department

Contract Transmittal Form

Health, Housing & Human Services Department

H3S Contract #: <u>TBD</u> Board Order #: _____	Division: <u>Com. Dev.</u> Contact: <u>Pamela Anderson</u> Program Contact Name: <u>Pamela Anderson</u>	<input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Amend # _____ \$ _____
<input type="checkbox"/> Non BCC Item <input checked="" type="checkbox"/> BCC Agenda DATE: <u>August 5th, 2021</u>		

CONTRACT WITH: Department of Housing and Urban Development (HUD)

CONTRACT AMOUNT: \$1,276,308.00

TYPE OF CONTRACT

<input type="checkbox"/> ASC–Agency Service Contract	<input type="checkbox"/> IAA-Interagency Services Agreement
<input type="checkbox"/> CONS-Construction Agreement	<input type="checkbox"/> MEMO-Memo of Understanding/Agreement
<input type="checkbox"/> CO–Change Order	<input type="checkbox"/> PT-Professional, Technical & Personal Services Contact
<input type="checkbox"/> IGA-Intergovernmental Agreement	

DATE RANGE

<input type="checkbox"/> Full Fiscal Year _____	<input type="checkbox"/> 4 or 5 Year _____ - _____
<input type="checkbox"/> Upon Signature - _____	<input type="checkbox"/> Biennium _____ - _____
<input checked="" type="checkbox"/> Other - <u>see attached for date ranges of HUD grants</u>	<input type="checkbox"/> 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: June 29, 2021

OR

This contract is in the format approved by County Counsel as part of the H3S contract standardization project.

SIGNATURE OF DIVISION REPRESENTATIVE:

X  _____ Brenda Durbin Social Services Division Director	X  <u>7/13/21</u> _____ Pamela Anderson Community Development Division Manager
--	---

H3S Admin
Only

Date Received: _____

Date Signed: _____

Date Sent: _____

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: Health, Housing and Human Services

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: HUD Continuum of Care Program competition FY 2020

Funding Source: Federal State Local

Requestor Information (Name of staff person initiating form): Pamela Anderson

Requestor Contact Information: panderson@elackamas.us

Department Fiscal Representative: Ed Johnson

Program Name or Number (please specify): FY 2020 Continuum of Care

Brief Description of Project:

The Health, Housing and Human Services Department, Community Development and Social Services Division request BCC approval to sign HUD's Continuum of Care (CoC) grant agreement for FY 2020 CoC program funding with the U.S. Department of Housing and Urban Development (HUD). There was no formal application process for this grant opportunity due to COVID-19. HUD is renewing existing applications. The CoC is a HUD-mandated administrative and organizational local response to homelessness that must follow the administrative requirements provided by HUD.

Name of Funding Agency: U.S. Department of Housing and Urban Development (HUD)

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

https://www.hud.gov/program_offices/comm_planning/coc/regulations

OR

Application Packet Attached: Yes No

Completed By: Pamela Anderson

July 8, 2021

Date

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

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

Competitive Application

Non-Competitive Application

Other

CFDA(s), if applicable:	<u>14.267</u>	Funding Agency Award Notification Date:	<u>June 8, 2021</u>
Announcement Date:	<u>due to covid, no competitive application, renewal only</u>	Announcement/Opportunity #:	<u>due to covid, no competitive application, renewal of existing applications only</u>
Grant Category/Title:	<u>HUD Continuum of Care</u>	Max Award Value:	<u>\$1,276,308</u>
Allows Indirect/Rate:	<u>yes - 1.54%</u>	Match Requirement:	<u>yes - 25% cash match or in-kind contribution</u>
Application Deadline:	<u>n/a</u>	Other Deadlines:	<u></u>
Award Start Date:	<u></u>	Other Deadline Description:	<u></u>
Award End Date:	<u></u>	Program Income Requirement:	<u>no</u>
Completed By:	<u>Pamela Anderson</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?

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 (Cash-CGF, In-kind meaning the value from a 3rd party/non-county entity, 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:

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

DIVISION DIRECTOR (or designee, if applicable)		
Erika Silver & Pamela Anderson	July 12, 2021	 Erika Silver <small>Digitally signed by Erika Silver Date: 2021.07.12 17:02:21 -07'00'</small>
<small>Name (Typed/Printed)</small>	<small>Date</small>	<small>Signature</small>

DEPARTMENT DIRECTOR (or designee, if applicable)		
<small>Name (Typed/Printed)</small>	<small>Date</small>	<small>Signature</small>

FINANCE GRANT MANAGER		
<small>Name (Typed/Printed)</small>	<small>Date</small>	<small>Signature</small>

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

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"/>
<small>Name (Typed/Printed)</small>	<small>Date</small>	<small>Signature</small>

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.



U.S. Department of Housing and Urban Development
Office of Community Planning and Development
1220 SW 3rd Avenue Suite 400
Portland, OR 97204-2830

Grant Number (FAIN): Multiple Projects
Tax ID Number: 93-6002286
DUNS Number: 096992656

CONTINUUM OF CARE PROGRAM (CDFA# 14.267)
GRANT AGREEMENT

This Grant Agreement (“this Agreement”) is made by and between the United States Department of Housing and Urban Development (“HUD”) and Clackamas County Department of Health, Housing and Human Services (the “Recipient”).

This Agreement, the use of funds provided under this Agreement (the “Grant” or “Grant Funds”), and the operation of projects assisted with Grant Funds are governed by title IV of the McKinney-Vento Homeless Assistance Act 42 U.S.C. 11301 et seq. (the “Act”), the Continuum of Care Program rule at 24 CFR part 578 (the “Rule”), as amended from time to time, and the Fiscal Year (FY) 2020 Continuum of Care (CoC) Program Non-competitive Funding Notice, Notice CPD-21-01. Capitalized terms that are not defined in this Agreement shall have the meanings given in the Rule.

Only the project (those projects) listed below are funded by this Agreement. HUD’s total funding obligation for this grant is \$1,276,308, allocated between the projects listed below and, within those projects, between budget line items, as shown below.

Project No.	Grant Term	Budget Period/Performance Period	Total Amount
OR0099L0E072013	12	07/01/2021 - 0630/20220	\$70,862

allocated between budget line items as follows:

a. Continuum of Care planning activities	\$0
b. Leasing	\$0
c. Rental assistance	\$0
d. Supportive Services	\$0
e. Operating costs	\$0
f. Homeless Management Information System	\$66,372
g. Administrative costs	\$4,490
h. Relocation costs	\$0
i. HPC homelessness prevention activities:	
Housing relocation and stabilization services	\$0
Short-term and medium term rental assistance	\$0

Project No.	Grant Term	Budget Period/Performance Period	Total Amount
OR0100L0E072013	12	07/01/2021 - 06/30/2022	\$308,569

allocated between budget line items as follows:

a. Continuum of Care planning activities	\$0
b. Leasing	\$0
c. Rental assistance	\$234,000
d. Supportive Services	\$62,342
e. Operating costs	\$0
f. Homeless Management Information System	\$0
g. Administrative costs	\$12,227
h. Relocation costs	\$0
i. HPC homelessness prevention activities:	
Housing relocation and stabilization services	\$0
Short-term and medium term rental assistance	\$0

Project No.	Grant Term	Budget Period/Performance Period	Total Amount
OR0141L0E072009	12	01/01/2022 - 12/31/2022	\$83,313

allocated between budget line items as follows:

a. Continuum of Care planning activities	\$0
b. Leasing	\$0
c. Rental assistance	\$76,692
d. Supportive Services	\$6,000
e. Operating costs	\$0
f. Homeless Management Information System	\$0
g. Administrative costs	\$621
h. Relocation costs	\$0
i. HPC homelessness prevention activities:	
Housing relocation and stabilization services	\$0
Short-term and medium term rental assistance	\$0

Project No.	Grant Term	Budget Period/Performance Period	Total Amount
OR0177L0E072007	12	07/01/2021 - 06/30/2022	\$131,133

allocated between budget line items as follows:

a. Continuum of Care planning activities	\$0
b. Leasing	\$0
c. Rental assistance	\$44,820
d. Supportive Services	\$78,114
e. Operating costs	\$0
f. Homeless Management Information System	\$0
g. Administrative costs	\$8,199
h. Relocation costs	\$0
i. HPC homelessness prevention activities:	
Housing relocation and stabilization services	\$0
Short-term and medium term rental assistance	\$0

Project No.	Grant Term	Budget Period/Performance Period	Total Amount
OR0217L0E072005	12	07/01/2021 - 06/30/2022	\$378,345

allocated between budget line items as follows:

a. Continuum of Care planning activities	\$0
b. Leasing	\$0
c. Rental assistance	\$286,884
d. Supportive Services	\$66,884
e. Operating costs	\$0
f. Homeless Management Information System	\$0
g. Administrative costs	\$24,577
h. Relocation costs	\$0
i. HPC homelessness prevention activities:	
Housing relocation and stabilization services	\$0
Short-term and medium term rental assistance	\$0

Project No.	Grant Term	Budget Period/Performance Period	Total Amount
OR0218L0E072005	12	07/01/2021 - 06/30/2022	\$31,928

allocated between budget line items as follows:

a. Continuum of Care planning activities	\$0
b. Leasing	\$0
c. Rental assistance	\$0
d. Supportive Services	\$29,026
e. Operating costs	\$0
f. Homeless Management Information System	\$0
g. Administrative costs	\$2,902
h. Relocation costs	\$0
i. HPC homelessness prevention activities:	
Housing relocation and stabilization services	\$0
Short-term and medium term rental assistance	\$0

Project No.	Grant Term	Budget Period/Performance Period	Total Amount
OR0237L0E072004	12	10/01/2021 - 09/30/2022	\$191,104

allocated between budget line items as follows:

a. Continuum of Care planning activities	\$0
b. Leasing	\$0
c. Rental assistance	\$171,108
d. Supportive Services	\$7,702
e. Operating costs	\$0
f. Homeless Management Information System	\$0
g. Administrative costs	\$12,294
h. Relocation costs	\$0
i. HPC homelessness prevention activities:	
Housing relocation and stabilization services	\$0
Short-term and medium term rental assistance	\$0

Project No.	Grant Term	Budget Period/Performance Period	Total Amount
OR0302L0E072000	12	10/01/2021 09/30/2022	\$81,054

allocated between budget line items as follows:

a. Continuum of Care planning activities	\$81,054
b. Leasing	\$0
c. Rental assistance	\$0
d. Supportive Services	\$0
e. Operating costs	\$0
f. Homeless Management Information System	\$0
g. Administrative costs	\$0
h. Relocation costs	\$0
i. HPC homelessness prevention activities:	
Housing relocation and stabilization services	\$0
Short-term and medium term rental assistance	\$0

Pre-award Costs for Continuum of Care Planning

The Recipient may, at its own risk, incur pre-award costs for continuum of care planning awards, after the date of the HUD selection notice and prior to the start date of the award budget period/performance period, if such costs: a) are consistent with 2 CFR 200.458; and b) would be allowable as a post-award cost; and c) do not exceed 10 percent of the total funds obligated to this award. The incurrence of pre-award costs in anticipation of an award imposes no obligation on HUD either to make the award, or to increase the amount of the approved budget, if the award is made for less than the amount anticipated and is inadequate to cover the pre-award costs incurred.

These provisions apply to all Recipients:

The Agreement constitutes the entire agreement between the parties, and may be amended only in writing executed by HUD and the Recipient.

The budget period/performance period of renewal projects funded by this Agreement will begin immediately at the end of the budget period/performance period (or final operating year for Supportive Housing Program (SHP) and Shelter Plus Care (S+C) grants being renewed for the first time) under the grant agreement being renewed. Eligible costs incurred between the end of Recipient's budget period/performance period (or final operating year for SHP and S+C grants being renewed for the first time) under the grant agreement being renewed and the date this Agreement is executed by both parties may be reimbursed with Grants Funds from this Agreement. No Grant Funds for renewal projects may be drawn down by Recipient before the end date of the project's budget period/performance period (or final operating year for SHP and S+C grants being renewed for the first time) under the grant that has been renewed.

The Recipient must complete the attached "Indirect Cost Rate Schedule" and return it to HUD with this Agreement. The Recipient must provide HUD with a revised schedule when any change is made to the rate(s) included in the schedule. The schedule and any revisions HUD receives from the Recipient will be incorporated into and made part of this Agreement, provided that each rate included satisfies the applicable requirements under 2 CFR part 200 (including appendices).

This Agreement shall remain in effect until the earlier of 1) written agreement by the parties; 2) by HUD alone, acting under the authority of 24 CFR 578.107; 3) upon expiration of the budget period/performance period for all projects funded under this Agreement; or 4) upon the expiration of the period of availability of Grant Funds for all projects funded under this Agreement.

HUD notifications to the Recipient shall be to the address of the Recipient as stated in the Recipient's applicant profile in e-snaps. Recipient notifications to HUD shall be to the HUD Field Office executing the Agreement. No right, benefit, or advantage of the Recipient hereunder may be assigned without prior written approval of HUD.

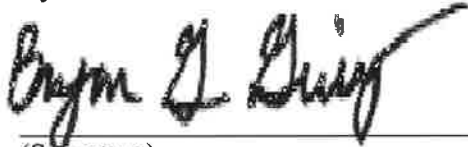
The Agreement constitutes the entire agreement between the parties and may be amended only in writing executed by HUD and the Recipient.

By signing below, Recipients that are states and units of local government certify that they are following a current HUD approved CHAS (Consolidated Plan).

This agreement is hereby executed on behalf of the parties as follows:

**UNITED STATES OF AMERICA,
Secretary of Housing and Urban Development**

By:



(Signature)

Bryan G. Guiney, Director

(Typed Name and Title)

June 7, 2021

(Date)

RECIPIENT

Clackamas County Department of Health, Housing and Human Services

(Name of Organization)

By:

(Signature of Authorized Official)

(Typed Name and Title of Authorized Official)

(Date)

INDIRECT COST RATE SCHEDULE

Agency/Dept./Major Function	Indirect cost rate	Direct Cost Base
H3S Administration	yes, varies 1.54 %	
	%	
	%	
	%	

This schedule must include each indirect cost rate that will be used to calculate the Recipient's indirect costs under the grant. The schedule must also specify the type of direct cost base to which each included rate applies (for example, Modified Total Direct Costs (MTDC)). Do not include indirect cost rate information for subrecipients.

For government entities, enter each agency or department that will carry out activities under the grant, the indirect cost rate applicable to each department/agency (including if the de minimis rate is used per 2 CFR §200.414), and the type of direct cost base to which the rate will be applied.

For nonprofit organizations that use the Simplified Allocation Method for indirect costs or elects to use the de minimis rate of 10% of Modified Total Direct Costs in accordance with 2 CFR §200.414, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

For nonprofit organizations that use the Multiple Base Allocation Method, enter each major function of the organization for which a rate was developed and will be used under the grant, the indirect cost rate applicable to that major function, and the type of direct cost base to which the rate will be applied.

To learn more about the indirect cost requirements, see 24 CFR 578.63; 2 CFR part 200, subpart E; Appendix IV to Part 200 (for nonprofit organizations); and Appendix VII to Part 200 (for state and local governments).

Grant #	name	CoC planning	HMIS	rent assist	supt svcs	Admin	total	term
OR0099L0E072013	HMIS		\$ 66,372			\$ 4,490	\$ 70,862	7/1/21-6/30/22
OR0100L0E072013	HOPE Leasing			\$ 234,000	\$ 62,342	\$ 12,227	\$ 308,569	7/1/21-6/30/22
OR0141L0E072009	HOPE 2			\$ 76,692	\$ 6,000	\$ 621	\$ 83,313	1/1/22-12/31/22
OR0177L0E072007	Rent Well RRH			\$ 44,820	\$ 78,114	\$ 8,199	\$ 131,133	7/1/21-6/30/22
OR0217L0E072005	Housing our Heroes			\$ 286,884	\$ 66,884	\$ 24,577	\$ 378,345	7/1/21-6/30/22
OR0218L0E072005	Coordinated Housing Access				\$ 29,026	\$ 2,902	\$ 31,928	7/1/21-6/30/22
OR0237L0E072004	Housing our Families RRH			\$ 171,108	\$ 7,702	\$ 12,294	\$ 191,104	10/1/21-9/30/22
OR0302L0E072000	CoC Planning	\$ 81,054					\$ 81,054	10/1/21-9/30/22

Grand Total

\$ 1,276,308

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with
the State of Oregon, Housing and Community Services Department to administer
Community Resource Division Funds

Purpose/Outcomes	Seeking approval for Intergovernmental agreement (IGA) that provides funds for a variety of Social Services programs in Clackamas County as described below.
Dollar Amount and Fiscal Impact	This is a revenue agreement with a Not to Exceed value of \$31,747,027 for the biennium.
Funding Source	State of Oregon, Housing and Community Services Department, Community Resources Division. No County General Funds are involved.
Duration	Amendment is executed upon signature with an eligible expenditure period of July 1, 2021 through June 30, 2023
Previous Board Action	The 19-21 biennial agreement was approved by the Board of County Commissioners on August 15, 2019.
Strategic Plan Alignment	1. This funding aligns with the Social Services Division's strategic priority to provide housing stabilization and supportive services to people who are homeless or at risk of becoming homeless so they can obtain and maintain permanent housing. 2. This funding aligns with the County's strategic priority to ensure safe, healthy and secure communities.
Counsel Review	1. <i>Date of Counsel review: 6-30-2021 & 7-12-21</i> 2. <i>Initials of County Counsel performing review: KR & SM</i>
Procurement Review	1. Was this item processed through Procurement? No 2. In no, provide brief explanation: This is a revenue IGA. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director – Social Services Division – (503) 655-6641
Contract No.	H3S# 10239, State #7005

BACKGROUND:

The Social Services Division (SSD) of the Health, Housing and Human Services Department requests the approval of an Intergovernmental Agreement renewal with the State of Oregon, Housing and Community Services Department (OHCS) to administer Community Resource Division (CRD) funds for a variety of SSD programs.

OHCS is Oregon's housing finance agency providing financial and program support to create and preserve opportunities for quality, affordable housing for Oregonians of lower and moderate

Healthy Families. Strong Communities.

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www.clackamas.us

income. OHCS was created in 1991 when the legislature merged the Oregon Housing Agency with State Community Services. The coordination between housing and services creates a continuum of programs that can assist and empower lower income individuals and families in their efforts to become self-reliant. OHCS administers Federal and State antipoverty, homeless, energy assistance, and community services programs.

To continue receiving these funds, Community Action agencies are required to conduct a planning process that assesses the local needs of low income people as established by ORS 458.505. The results of the process are apparent in design and implementation of our local programs through relevant CRD Implementation Reports that are written by SSD staff and submitted to OHCS for approval.

The planning process results in an executed agreement referred to as the Master Grant Agreement (MGA). The 21-23 MGA covers the period from July 1, 2021 through June 30, 2023.

The program and funding components included in the MGA are as follows:

Community Services Block Grant (CSBG): Federal funds designed to provide services to low income individuals including frail, elderly, and disabled citizens.

State Homeless Assistance Program (SHAP): State of Oregon general funds designed to provide support to emergency shelter programs. These funds will be used to support warming center and emergency shelter services in Clackamas County.

Emergency Housing Assistance Program (EHA): State of Oregon general funds designed to provide housing and shelter related activities with their primary focus being a permanent solution to housing needs. Programs funded by this source include emergency shelters, housing related information and referral services, case management services to low-income households.

Emergency Housing Assistance Program – Veterans: State of Oregon general funds designated to support homeless veterans by funding services and supports. These services include one homeless veteran outreach worker.

Elderly Rental Assistance Program (ERA): State of Oregon general funds designed to assist with the cost of rental housing for very low-income households that are homeless, at risk of homelessness, or unstably housed, where at least one household member is 58 years or older. These funds provide rental and financial assistance, supportive-in home services, and case management.

Housing Stabilization Program (HSP): State of Oregon general funds designed to assist programs which secure stable housing for chronically homeless clients served by the State of Oregon, Department of Human Resources, Adult and Family Services Division. Program activities will focus on establishing clean credit histories, facilitating client understanding of resident and landlord rights and obligations, and money management skills.

Rent Relief COVID-19 CARES Act: Federal pass-through funds that provide direct rental assistance to eligible low income individuals and households impacted by COVID-19.

ESG-COVID COVID-19 CARES Act: Federal pass-through funds that support local programs to assist very low-income individuals and families at risk of homelessness, or homeless, that were affected by COVID-19.

Energy Assistance Stability COVID-19 CARES Act: Federal pass-through funds that provide bill pay assistance on behalf of eligible low-income residential customers of electric and natural gas utilities that have been impacted by COVID-19.

Low Income Home Energy Assistance Program (LIHEAP): Federal funds designed to assist low-income households with emphasis on elderly and disabled persons with unpaid winter utility bills.

Oregon Energy Assistance Program (OEAP): Portland General Electric (PGE) generated funds designed to assist low-income households with assistance payments directed toward their PGE bills.

Low Income Home Energy Assistance Weatherization Program and Department of Energy Weatherization Program (WX): These programs will be operated directly by the County's Weatherization program.

The agreement has been reviewed by County Counsel. There are no County General Funds involved. There is a small match required for the HSP program. The matching funds utilized are state funds.

RECOMMENDATION:

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

Respectfully submitted,

Mary Rumbaugh

Digitally signed by Mary Rumbaugh
Date: 2021.07.14 10:05:50 -07'00'

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

MASTER GRANT AGREEMENT 21-23 #7005

INTRODUCTION

This **2021-23 Master Grant Agreement #7005** (this "Agreement" or "MGA") is entered into by and between the State of Oregon, acting by and through its **Housing and Community Services Department**, together with its successors and assigns hereinafter referred to collectively as "OHCS" or "Department" and **Clackamas County, acting by and through its Health, Housing and Human Services Department**, hereinafter referred to as "Subgrantee".

RECITALS

- A. Oregon Revised Statute ("ORS") chapters 456 and 458 authorize the Department to collaborate and cooperate with the community action agency network in providing community services programs in the state as a delivery system for federal and state antipoverty programs to promote outreach, communication, advancement, and related community services with respect to Department programs.
- B. ORS chapters 456 and 458 authorize the Department to receive and disburse funds made available for these purposes;
- C. Subgrantee has established and proposes, during the term of this Agreement, to operate or contract for the operation of the Departments programs in accordance with the federal and state regulations, rules, policies and procedures of the Department;

AGREEMENT

NOW THEREFORE, for good and sufficient consideration, including the terms and conditions herein, it is agreed by and between the parties hereto as follows:

- 1. **Incorporation of Recitals.** The foregoing Recitals, the Implementation Report (as later defined), the Notice or Notices of Allocation (NOAs) (as later defined), and the Exhibits hereto are incorporated into this Agreement by reference, except that the Recitals, the Implementation Report, the NOAs, and the Exhibits do not modify this Agreement's express provisions.
- 2. **Effective Date and Duration.** When all parties hereto have executed this Agreement, and all necessary approvals have been obtained (the "Executed Date"), this Agreement is effective and has a funding start date of **July 1, 2021** (the "Effective Date"). Unless terminated earlier in accordance with its terms, or extended for time with a written amendment, this Agreement shall terminate on **June 30, 2023**.
- 3. **Consideration.** While there is no guarantee of funding under this Agreement, it authorizes OHCS to provide grant funding to subgrantee up to an amount not to exceed **\$31,747,027.00** (the "Grant Funds"). The grant funds available to Subgrantee through OHCS are contingent on OHCS receiving federal awards, state funds, and limitation. These grant funds may be allocated by OHCS to Subgrantee upon availability to OHCS through the Notice of Allocation process, as later defined in this Agreement. Allocations will be made by OHCS in accordance with applicable Program periods, funding formulas, or otherwise as applicable.
- 4. **Grant Managers.**
 - 4.1. OHCS Grant Managers:

Mike Savara, Assistant Director of Homeless Services
725 Summer Street NE, Suite B
Salem, OR 97301
Phone: (503) 931-5944
Email: Mike.Savara@oregon.gov

Laura Lien, Assistant Director of Homeless Services
725 Summer Street NE, Suite B
Salem, OR 97301

MASTER GRANT AGREEMENT 21-23 #7005

Phone: (503) 580-9335

Email: Laura.Lien@oregon.gov

Tim Zimmer, Assistant Director of Energy and Weatherization Services

725 Summer Street NE, Suite B

Salem, OR 97301

Phone: (503) 986-2067

Email: Tim.Zimmer@oregon.gov

4. Subgrantee's Grant Manager is:

Jessica Diridoni

2051 Kaen Rd, PO Box 2950

Oregon City, OR 97045

Phone: (503) 894-0968

Email: JDiridoni@clackamas.us

5. **Agreement Documents, Order of Precedence.** This Agreement consists of the following documents that are listed in descending order of precedence:

- This Agreement less all Exhibits and Attachments
- Exhibit A – Definitions;
 - Implementation Report Attachments (as applicable)
 - Program Elements (as applicable)
- Exhibit B - Standard Terms and Conditions
- Exhibit C – Special Provisions
- Exhibit D - Federal Assurances
- Exhibit E - Oregon State Historic Preservation Office Agreement

All of the foregoing Exhibits are attached hereto and incorporated herein by this reference

6. **DIVERSITY, EQUITY AND INCLUSION.** Building Community Action Agency organizational capacity to provide inclusive services to diverse constituencies is a first step to ensure equitable and culturally responsive services for all Oregonians in need. OHCS and subgrantee commit to intentional, data driven approach to reduce disparities in housing and social service provision. OHCS commits to creating a system to analyze OHCS-funded programs and remove identified barriers to accessing opportunities within those programs.

7. **CERTIFICATIONS AND SIGNATURE OF SUBGRANTEE'S AUTHORIZED REPRESENTATIVE.**

THIS AGREEMENT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF SUBGRANTEE.

The undersigned certifies under penalty of perjury both individually and on behalf of Subgrantee that:

A. The undersigned is a duly authorized representative of Subgrantee, has been authorized by Subgrantee to make all representations, attestations, and certifications contained in this Agreement and to execute this Agreement on behalf of Subgrantee;

B. By signature on this Agreement for Subgrantee, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Subgrantee and that Subgrantee is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620;

C. To the best of the undersigned's knowledge, Subgrantee has not discriminated against and will not discriminate

MASTER GRANT AGREEMENT 21-23 #7005

against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;

D. Subgrantee and Subgrantee's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <https://home.treasury.gov/policy-issues/financial-sanctions/specially-designated-nationals-and-blocked-persons-list-sdn-human-readable-lists>;

E. Subgrantee has sufficient staffing and operation capacity to expend the Grant Funds;

F. Subgrantee acknowledges that OHCS reserves the right to reduce Subgrantee funding as it determines to be appropriate in its sole discretion and redistribute such funds to other eligible providers with the goal of minimizing service disruption and ensure funds are utilized; and

G. Subgrantee is bound by and will comply, and require its subrecipients to comply, with all federal, state, and local laws, regulations, requirements, terms and conditions contained in and as applicable to this Agreement.

[Signature Page Follows]

MASTER GRANT AGREEMENT 21-23 #7005

SUBGRANTEE, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT SUBGRANTEE HAS READ THE AGREEMENT, UNDERSTANDS IT, HAS THE LEGAL AUTHORITY TO BIND, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Authorized Signature: _____ Date: _____

Name (Print): Tootie Smith Title: Board Chair

Telephone Number: 503-655-8581 E-Mail Address: bcc@clackamas.us

DUNS #: 096992656

Fiscal Contact Name (Print): Jennifer Snook Title: Management Analyst Senior

E-Mail Address: Jennifersno@clackamas.us Phone #: 503-655-8760

8. SIGNATURE OF STATE'S AUTHORIZED REPRESENTATIVE.

State of Oregon acting by and through its
Housing and Community Services Department
725 Summer Street NE Suite B, Salem, OR 97301

Authorized Signature: _____
Margaret Solle Salazar, Director or designee Date

DEPARTMENT OF JUSTICE

Approved for Legal Sufficiency by: Hannah P. Fenley, pursuant to OAR 137-045-0015(3), June 16, 2021

(The remainder of this page is intentionally left blank.)

2021-2023 MASTER GRANT AGREEMENT

Exhibit A, Definitions

July 1, 2021

Definitions

Certain words and phrases in this agreement, including but not limited to the, applicable Program Element have the meanings provided herein, as stated in federal, state, local laws, regulations, and rules or as otherwise provided by OHCS, unless the context clearly requires otherwise:

Word/Phrase	Program Applicability:	Meaning
“Allocation”	All Programs	Means an amount of funding made available to a CAA to be used for a specific purpose.
“Allowable Cost”	All Programs	Means the costs described in the 2 CFR Subtitle B with guidance at 2 CFR Part 200, except to the extent such costs are limited or excluded by other provisions of the Agreement, whether in the applicable NOAs, Program Elements, or otherwise.
“Applicant”	All Programs	Means any person who applies to receive program benefits.
“ASHRAE”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means the American Society of Heating, Refrigerating, and Air-Conditioning Engineers.
“Assurance 16 funds”	LIHEAP	Means the portion of LIHEAP funds used by states to provide services, including needs assessments, counseling, and assistance with energy vendors, that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance.
“Baseload services”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means any measure that reduces non- heating and cooling costs. These measures can include, but are not limited to, energy efficient lighting, water saving devices, and high efficiency water heaters.
“Client”	All Programs	Means, with respect to a particular Program Element, any individual who is receiving those program services for or through the Subgrantee.
“Committed”	All Programs	Means an amount of funding reserved for specific client or project that subgrantee believes, in their best judgement, will be spent but hasn’t been requested from OHCS.
“Crisis assistance”	LIHEAP, OEAP	Means the assistance provided to low-income households for crisis situations such as supply shortages, loss of Household heating or cooling or other situations approved by OHCS as described in the LIHEAP state plan and the energy assistance operations manual.
“Crisis assistance”	EAS-CRF	Means the bill payment assistance provided to low-income households for crisis situations such as supply shortages or other situations as described in the energy assistance operations manual.

"Culturally Specific Organization"	All Programs	Means an entity that provides services to a cultural community and the entity has the following characteristics: (a) Majority of members and/or clients are from a particular community of color; (b) Organizational environment is culturally focused and the community being served recognizes it as a culturally-specific entity that provides culturally and linguistically responsive services; (c) Majority of staff are from the community being served, and the majority of the leadership (defined to collectively include board members and management positions) are from the community being served; (d) The entity has a track record of successful community engagement and involvement with the community being served; and (e) The community being served recognizes the entity as advancing the best interests of the community and engaging in policy advocacy on behalf of the community being served.
"Deferral"	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means deferring a project that is either structurally unsound or has safety hazards that cannot be addressed under the scope of the program. The project is deferred until the necessary repairs can be completed.
"Department" or "OHCS"	All Programs	Means the Housing and Community Services Department for the state of Oregon.
"DHS"	HSP	Means the Department of Human Services for the state of Oregon.
"Disallowance of Costs"	All Programs	Means money disbursed to Subgrantee by Department under this Agreement and expended by Subgrantee that: a. Is identified by the Federal Government as an improper use of federal funds, a federal notice of disallowance, or otherwise; or b. Is identified by the Department as expended in a manner other than that permitted by this Agreement; or c. Is identified by the Department of expended on the delivery of a Program Element service that did not meet the standards and requirements of this Agreement with respect to that service.
"DOE"	BPA WAP, DOE WAP, LIHEAP	Means the Federal Department of Energy.
"Elderly Household"	ERA	Means an individual living alone, a family with or without children, or a group of individuals who are living together as one economic unit, where at least one member of the household is age 58 or older.

“Eligible dependent child”	HSP	Means an unmarried or separated individual who is either under the age of eighteen (18) years OR is under nineteen (19) years and a full-time student OR is a minor parent OR an unborn child.
“Eligible family household”	HSP	Means a low-income household with an eligible dependent child or children, including a single pregnant woman in the month of her due date, living together as one economic unit.
“Emergency shelter”	EHA, ESG, SHAP, ESG-CV	Means any appropriate facility that has the primary use of providing temporary or transitional shelter for the homeless in general or for specific populations of the homeless and the use of which does not require occupants to sign leases or occupancy agreements.
“Energy education”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means the activities and instruction designed to help low-income clients make informed decisions to effectively reduce energy consumption.
“Expenditure Period”	All Programs	Means the time period in which the funds are intended to be used.
“Express Enrollment”	EAS-CRF	Means if an applicant household includes one person enrolled in one of the specified programs and provides documentation of their current enrollment in said program, the household will be eligible for this energy assistance stability program.
“Extremely low income”	EHA, ERA, ESG, HTBA, SHAP	Means an annual household income that is at or less than 30% of area median income based on HUD determined guidelines, adjusted for family size.
“Equipment”	All Programs	Means tangible personal property (including information technology systems) having a useful life of more than one year, and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by subgrantee, or as defined in 2 CFR 200.33.
“Funding agreement” or “Agreement”	All Programs	Means the master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and the subgrantee agency in form and substance satisfactory to the department, as a condition precedent for receipt of program funding from the department.
“Funding application”	All Programs	Means the subgrantee agency’s application to the department for a program grant.
“HHS”	CSBG, HSP, LIHEAP, LIHEAP WX	Means U.S. Department of Health and Human Services.
“HMIS”	CSBG, EHA, ERA, ESG, HSP, HTBA, SHAP, C19-RENTAL RELIEF (CARES ACT), ESG-CV	Means Homeless Management Information System.
“HOME”	HTBA	Means HUD’s HOME Investment Partnerships Program established by the HOME Investment Partnerships Act at Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, 42 U.S.C. § 12701 et seq.

“Home energy supplier”	LIHEAP	Means a supplier who either delivers home energy in bulk to households or provides home energy continuously via wire or pipe.
“Home energy supplier”	OEAP	Means Portland General Electric and Pacific Power utility vendors.
“Home energy supplier”	EAS-CRF	Means any electric or natural gas utility.
“Homeless”	EHA, ERA, ESG, HSP, SHAP, ESG-CV	Means an individual, family or household that lacks a fixed, regular, and/or adequate nighttime residence in accordance with department categorical definitions. Categorical definitions are contained in the program manual.
“Household”	CSBG, EHA, ESG, HTBA, , SHAP, ESG-CV	Means an individual living alone, a family with or without children or a group of individuals who are living together as one economic unit.
“Household”	LIHEAP, OEAP, EAS-CRF	Means any individual residing alone or groups of individuals who are living together as one economic unit and purchase residential energy in common.
“Housing”	HTBA	Means rental unit, which may be in a rental complex or a free-standing single-family home. It also includes, but is not limited to, rental manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing and single room occupancy housing. Housing does not include emergency shelters (including domestic violence shelters) or facilities, correctional facilities and student dormitories.
“Implementation Report”	All Programs	Means the Subgrantee’s OHCS-approved implementation plan for the use of program funds with respect to applicable program elements. Implementation Reports may be submitted by the Subgrantee and approved by OHCS after the Effective Date of this Agreement at OHCS’s discretion.
“Income”	All Programs	Means the total household income from all sources before taxes, which may be reduced by deductions allowed by the department in compliance with program requirements. Income does not include assets or funds over which the applicant or household has no control.
“Low-income household”	CSBG	Means a household with an annual household income at or less than 200% of the federal poverty guidelines or the maximum as assigned by HHS-ACF-OCS.
“Low-income household”	EHA, ERA, ESG, HTBA, SHAP, ESG-CV	Means a household with an annual household income that is more than 50%, but below 80% of the area median income based on HUD determined guidelines, as adjusted for family size.
“Low-income household”	HSP	Means household with an annual income that is at or below 250% of the federal poverty guidelines and which household assets do not exceed \$2,500.
“Low-income household”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means a household with income that is at or below 200% of the federal poverty level.

“Low-income household”	LIHEAP, OEAP	Means a household with income that is at or below 60% of state median income.
“Low-income household”	C19-RENTAL RELIEF (CARES ACT); EAS-CRF	Means a household with income that is at or below 80% of area median income.
“Maintenance of effort”	HSP	Means DHS allowable nonfederal cash and in-kind contributions used to supplement program services in an amount that equals the subgrantee agency’s program allocation as defined in the program manual and approved by the department.
“Migrant and seasonal farmworker organization”	CSBG	Means a private nonprofit organization organized under ORS chapter 65 that serves migrant and seasonal farmworkers and their families.
“NOA”	All Programs	Means Notice of Allocation which is issued by the Department to subgrantee to award, distribute, or recapture grant funds under this Agreement as they are requested, come available, or are revoked under a program.
“Participant”	All Programs	Means a household who receives program services.
“Peer exchange”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means an exchange of information between peers; usually a visit by one agency to another to review work and exchange ideas and best practices to enhance their programs.
“Program” or “Program Elements” or use of acronym to identify the program	All Programs	Means the program administered by the department pursuant to all applicable federal, state, local laws, rules and regulations.
“Program manual” or “manual”	CSBG, EHA, ERA, ESG, HSP, HTBA, SHAP, LIHEAP, OEAP, C19-RENTAL RELIEF (CARES ACT), EAS-CRF, ESG-CV	Means the program operations manual, as amended from time to time.
“Program requirements” or “legal requirements”	All Programs	Means all terms and conditions of the MGA, incorporated exhibits department directives (including deficiency notices), and including applicable, federal, state laws, rules and regulations, executive orders, applicable administrative rules and OHCS program manuals and local ordinances and codes all as amended from time to time.
“Program services”	CSBG, EHA, ERA, ESG, HSP, HTBA, SHAP, C19-RENTAL RELIEF (CARES ACT), ESG-CV	Means allowable services and activities as defined by the program laws, rules, regulations and eligible under the program.
“Projected (Advance) Expense”	All Programs	Means a payment made by the Department to the subgrantee before the subgrantee disburses the funds for program purposes.
“Poverty guideline”	CSBG, HSP	Means the simplified version of the federal (U.S. Census Bureau) poverty thresholds released annually by HHS to determine financial eligibility for the program.

“Qualified household” or “eligible household”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means any household that meets the qualifications to receive weatherization services.
“Real Property”	All Programs	Means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.
“REM/Design”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means a computerized residential modeling tool used for the purposes of determining the savings to investment ratio of a project or measure.
“Reimbursement”	All Programs	Means the subgrantee’s request for reimbursement of allowable expenses incurred and costs to carry out the delivery of the grant programs and services.
“Savings to investment ratio (SIR)”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means a comparison of the annual savings to the initial investment in a measure. An SIR of 1.0 indicates that a measure will pay for itself in energy savings over the life of the measure.
“Self-sufficiency”	CSBG, EHA, HTBA	Means meeting basic needs and achieving stability in areas including, but not limited to, housing, household income, nutrition, health care and accessing needed services.
“Subgrantee” or “sub-grantee agency” or “agency”	All Programs	Means is a qualified entity, which has demonstrated its capacity and desire to utilize Community Services program funds to administer Community Services programs in accordance with the terms and conditions of this Agreement, including applicable federal statutes and regulations, applicable State statutes, applicable OHCS and other administrative rules, manuals, and orders, as well as applicable local codes, ordinances (all of the foregoing, including as amended from time to time).
“Subaward”	All Programs	Means an award of financial assistance made under an award by the Subgrantee to an eligible subrecipient or by a subrecipient to a lower tier subrecipient.
“Subrecipient”	All Programs	Means a qualified entity that enters into a written agreement with the subgrantee, satisfactory to OHCS, to provide program services to qualified participants.
“TANF”	HSP	Means Temporary Assistance to Needy Families” grant as delivered by DHS.
“Very-low income”	EHA, ERA, HTBA, ESG-CV	Means an annual household income that is at or less than 50% of the area median income based on HUD determined guidelines adjusted for family size.
“Veteran”	EHA, C19-RENTAL RELIEF (CARES ACT)	Means a person who served in the U.S. Armed Forces and was discharged under honorable conditions or is receiving a non-service-connected pension from the U.S. Department of Veterans Affairs as further defined in ORS 408.225 and the program manual.
“Weatherization services”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WX	Means conservation measures meant to reduce heating and cooling loads. These measures may include both air infiltration reduction and thermal

		improvements such as wall, attic, and floor insulation.
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MASTER GRANT AGREEMENT 2021-2023

EXHIBIT B

STANDARD TERMS AND CONDITIONS

1. Disbursement of Grant Funds; Allowable Costs.

1.1 Disbursement

1.1.1 Funding Availability. Subject to the availability of sufficient monies in and from the Program funding source based on OHCS' reasonable projections of monies accruing to the Program funding source, OHCS will disburse Grant Funds to Subgrantee for the allowable Program work described in the approved Implementation Report that is undertaken during the Performance Period.

1.1.2 Implementation Report. OHCS' disbursement of Grant Funds to Subgrantee are contingent upon Subgrantee's prior submission to OHCS and OHCS' review and acceptance of Subgrantee's plan to execute the Program work in accordance with the applicable Program Elements (the "Implementation Report"). At OHCS's sole discretion, OHCS may disburse Grant Funds prior to the submission and approval of an Implementation Report.

1.1.3 Notices of Allocation (NOAs). Upon its acceptance of Subgrantee's Implementation Report, OHCS will issue through OPUS one or more Notices of Allocation (NOAs) to Subgrantee to indicate the approval of the Implementation Report. Subgrantee is subject to, and will comply with, all such NOA terms and conditions including this Agreement and the applicable Program Elements. Any NOA issued as described herein is immediately effective, is incorporated into and constitutes a part of this Agreement. Subgrantee accepts a NOA, including modifications thereto, upon undertaking performance of the Program work funded by the NOA. OHCS reserves the right in its sole discretion to modify, correct, adjust, or terminate any NOAs. OHCS' modification or termination of a NOA does not terminate OHCS' remedies with respect to Subgrantee's performance or non-performance of obligations due under this Agreement.

1.1.4 Federal Funding Terms. Grant Funds that are derived from federal sources are subject to the terms under which they are received. Subject to the availability of Program funds, OHCS having continued funding, appropriation, limitation, allotment, or other expenditure authority sufficient to allow it, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement, and conditioned upon the terms and conditions of this Agreement, OHCS will make the Grant Funds to Subgrantee up to the maximum principal amount stated in Section 3 (Consideration) of the Agreement, to perform under this Agreement. OHCS will provide Grant Funds to Subgrantee only upon approved reimbursement requests for allowable costs incurred or if allowed by OHCS to be incurred by Subgrantee consistent with the terms and conditions of this Agreement, including applicable Program Elements.

1.1.5 Backup Documentation; Substantiation.

1.1.5.1 Subgrantee must provide to OHCS any information or detail regarding the expenditure of Grant Funds required under the Implementation Report and applicable Program Elements prior to disbursement or as OHCS may request.

1.1.5.2 Subgrantee's request for Grant Funds must be supported by documentation satisfactory to OHCS, including but not limited to: properly executed payroll and time records, invoices, contracts, vouchers, orders, canceled checks and/or any other accounting documents pertaining in whole or in part to the Agreement (or in the case of subrecipients, under their respective contracts with Subgrantee) in accordance with generally accepted accounting principles and applicable state and federal requirements, including as specified herein. OHCS may require such other information or clarification as it deems necessary or appropriate in its sole discretion.

1.1.5.3 Approval by OHCS. OHCS will only disburse Grant Funds to Subgrantee for activities completed or materials produced, that, if required by the Implementation Report or applicable Program Elements, are approved by OHCS. If OHCS determines any completed Program work is not acceptable and any deficiencies are the responsibility of Subgrantee, OHCS will prepare a detailed written description of the deficiencies within fifteen (15) days of receipt of the materials or performance of the activity and will deliver such notice to Subgrantee. Subgrantee must correct any deficiencies at no additional cost to OHCS within fifteen (15) days. Subgrantee may resubmit a request for disbursement that includes evidence satisfactory to OHCS demonstrating deficiencies were corrected.

1.2 Conditions Precedent to Disbursement. OHCS' obligation to disburse Grant Funds to Subgrantee under this Agreement is subject to satisfaction of each of the following conditions precedent:

1.2.1 OHCS has received sufficient funding, appropriations, expenditure limitation, allotments, or other necessary expenditure authorizations to allow OHCS, in the exercise of its reasonable administrative discretion, to make the disbursement from the Program funding source;

1.2.2 No default as described in Section 12 of this Exhibit B has occurred; and

1.2.3 Subgrantee's representations and warranties set forth in Section 7 of this Exhibit B are true and correct on the date of disbursement(s) with the same effect as though made on the date of disbursement.

1.3 Advances and Reimbursement of Grant Funds.

1.3.1 Generally. Subgrantee must request Grant Funds in such form and manner as is satisfactory to or required by OHCS. Further, in accordance with U.S. Treasury Regulations, 31 CFR Part 205, implementing the Cash Management Improvement Act, Subgrantee must limit any request for Grant Funds to the minimum amount needed to accomplish its described purposes and to time the request in accordance with the actual, immediate cash requirements of the Subgrantee in performing the Program work. Submission of proper account records showing revenue and expenditures for the reporting period must be submitted as documentation to support the amounts being requested. The foregoing requirements apply to all Grant Funds requested under this Agreement.

1.3.2 Advance of Funds (Projected). Subgrantee may request to be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to the Subgrantee must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the Subgrantee in carrying out the purposes of the grant as described in this Agreement. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the Subgrantee for allowable grant direct costs and the proportionate share of any allowable indirect costs. Subgrantee must make timely payment to contractors in accordance with the contract provisions. Advance grant fund payments are at OHCS' sole discretion and will be made only as close as is administratively feasible to the actual use by the Subgrantee for applicable direct or indirect Program work costs and only up to the proportionate share of such allowable costs as is permitted under the Agreement, including applicable Program Elements.

1.3.3 Reimbursement of Funds. When the Subgrantee requests payment by reimbursement, reimbursement is the preferred method when the requirements in Section 1.4.2 of this Exhibit B above cannot be met. OHCS will make payment within thirty (30) calendar days upon receipt of the reimbursement request and all adequate backup documentation (to OHCS' satisfaction in its sole discretion), unless OHCS reasonably believes the request to be improper.

1.4 Disallowance of Costs.

1.4.1 OHCS is not responsible nor will it pay for any costs disallowed either upon a request for funds or as a result of any audit, review, site visit, or other disallowance action by OHCS, except for costs incurred by Subgrantee solely due to the willful misconduct or gross negligence of OHCS, its employees, officers, or agents. If a cost is disallowed by OHCS after reimbursement has occurred, Subgrantee shall repay all disallowed costs to OHCS upon written notice within the time frame specified by OHCS, which in no event shall exceed thirty (30) days.

1.4.2 If Subgrantee is a county, such disallowed costs may be recovered by OHCS only through repayment, withholding, or by other means authorized by this Agreement or as allowed at law not inconsistent with the Oregon Constitution, and particularly Article XI, Section 10 and consistent with the applicable Program Elements and specifically requirements set forth by the federal government.

1.4.3 If Subgrantee is other than a county, OHCS may recover such disallowed costs through repayment, withholding, offset, or other means permitted under this Agreement, by law or otherwise but consistent with the applicable Program Elements and specifically requirements set forth by the federal government.

1.4.4 Subgrantee will, and will cause its subrecipients to, cooperate with OHCS and all appropriate investigative agencies will assist in recovering invalid payments.

1.5 Unallowable Costs and Lobbying Activities. Subgrantee will review and comply with the applicable Program Elements and adhere to provisions on allowable costs and expenditures. Subgrantee will, among other obligations, comply with the provisions prohibiting the expenditure of funds for lobbying and related activities, whether in 2 CFR

Part 230, 2 CFR Part 225, or otherwise, as such provisions may be modified from time to time. If Subgrantee makes expenditures or incurs costs for purposes or amounts inconsistent with the allowable costs of the Grant Funds as described in the Implementation Report, applicable Program Elements, or elsewhere in this Agreement, such funds are subject to recapture and OHCS may exercise any and all remedies under this Agreement to otherwise available at law.

1.6 No Duplicate Payments. Subgrantee may use other funds in addition to the Grant Funds to complete the Program work; provided, however, the Subgrantee may not credit or pay any Grant Funds for Program work costs that are paid for with other funds and would result in duplicate funding. Subgrantee is provided thirty (30) days to return the duplicative payments. After thirty (30) days, if a duplicate payment has not been returned or applied to a cost not already covered by Program funding, reimbursement of the duplicate payment must be made to OHCS and shall include the entire amount of duplicate payment funds received regardless of OHCS reimbursement amounts.

1.7 Suspension of Funding and Project. OHCS may by written notice to Subgrantee, temporarily cease funding and require Subgrantee to stop all, or any part, of the Program work for a period of up to 180 days after the date of the notice, if OHCS has or reasonably projects that it will have insufficient funds from the Program funding source to disburse the full amount of the Grant Funds. Upon receipt of the notice, Subgrantee must immediately cease all Program work, or if that is impossible, must take all necessary steps to minimize the Program work.

If OHCS subsequently projects that it will have sufficient funds, OHCS will notify Subgrantee that it may resume activities. If sufficient funds do not become available, Subgrantee and OHCS will work together to amend this Agreement and any applicable NOAs to revise the amount of Grant Funds and Program work to reflect the available funds. If sufficient funding does not become available or an amendment is not agreed to within a period of 180 days after issuance of the notice, OHCS will either (i) cancel or modify its cessation order by a supplemental written notice, or (ii) terminate this Agreement as permitted by either the termination at OHCS' discretion or for cause provisions of this Agreement.

2. Nonexclusive Remedies Related to Funding.

2.1 Spending Down and Reallocation Policy. All Grant Funds with the exception of administrative allocations, will be spent proportionally to the expenditure period at the rate prescribed below (as tracked through the OPUS "Award Summary" report).

2.1.1 Minimum Spending Targets:

- At 25% through expenditure period, at least 10% of the funding must be spent
- At 50% through expenditure period, at least 25% of the funding must be spent
- At 75% through expenditure period, at least 65% of the funding must be spent
- At 90% through expenditure period, at least 90% of the funding must be spent

Any spending below these targets will be evaluated against the Subgrantee's time-bound expenditure plan (which outlines the Subgrantee's flexible spend rate) as approved by and on file with OHCS. Any spending below these stated rates is subject to rescission of Grant Funds. Any amount of funding greater than 10% of a funding source's total allocation or a combined total of \$100,000 that is subject to rescission will trigger Community Action Agency (CAA) Board Notification.

2.2 OHCS and Subgrantee Collaboration to Cure. When spending is below the thresholds described above, and prior to funding rescission, OHCS and Subgrantee agree to collaborate to find solutions that resolve the issues, provided it is within OHCS' control (in its sole discretion) to adjust to meet Subgrantee's needs and does not conflict with federal law. OHCS will allow proposals from subgrantee to cure spending issues and prevent funding rescission. Subgrantee will have 30 days to modify Implementation Reports and update the flexible spend rate in the time-bound expenditure plans to demonstrate how compliance with spending targets will be achieved.

2.3 Subgrantee Board and Housing Stability Council Notification Protocols.

2.3.1 Board Notification. OHCS will notify Subgrantee's Board Chair and Subgrantee's Executive Director about the potential funding rescission. This notice will occur after modified Implementation Reports have been approved and only if the updated spending targets remain unmet. A final time-bound expenditure plan must be submitted to OHCS with a final Implementation Report by the Subgrantee's Executive Director within thirty (30) days of OHCS's notice to Subgrantee's board.

2.3.2 Housing Stability Council Notification. If all efforts to retain funding in Subgrantee's intended community fail, a report to the Housing Stability Council will be generated which outlines the facts and circumstances associated with the funding rescission.

2.4 Withholding, Retention, and Redistribution of Grant Funds.

2.4.1 Withholding. OHCS may withhold any and all undisbursed Grant Funds from Subgrantee if OHCS determines, in its sole discretion, that Subgrantee has failed to timely satisfy any material obligation arising under this Agreement, including but not limited to compliance with the applicable Program Elements, providing complete, accurate and timely reports in a form satisfactory to OHCS, or if OHCS determines that the rate or scale of request for Grant Funds in any expenditure category materially deviates from an applicable NOA or is unsubstantiated by related documentation.

2.4.2 Retention or Redistribution of Grant Funds.

2.4.2.1 Due to Non-Timely Use. If Grant Funds are not obligated for reimbursement by Subgrantee in a timely manner as determined by OHCS at its sole discretion, OHCS may in its sole discretion, reduce Subgrantee's Grant Funds and redistribute Grant Funds to other subgrantees or retain such funds for other OHCS use, within applicable state and federal law. OHCS may implement adjustments pursuant to this subsection by modifying the applicable NOA(s). This remedy is in addition to any other remedies available to OHCS under this Agreement or otherwise.

2.4.2.2 Due to Substantial Difference. If the rate of request for any expenditure or cost category is substantially different (as determined by OHCS in its sole discretion) that in OHCS-approved budget submissions, including applicable NOAs, OHCS has sole discretion to reduce and redistribute or retain any and all funds otherwise available to Subgrantee under this Agreement. OHCS may implement adjustments pursuant to this subsection by modifying the applicable NOA. This remedy is in addition to any other remedies available to OHCS under this Agreement.

2.4.3 Repayment of Excess Disbursed Funds.

2.4.3.1 Due to Modified NOA. If Grant Funds previously disbursed by OHCS to Subgrantee exceed a relevant modified NOA amount and remain unexpended by Subgrantee, Subgrantee shall not expend any such excess Grant Funds. Subgrantee, instead shall return any remaining unexpended Grant Funds in excess of the modified NOA to OHCS within thirty (30) calendar days of the modified NOA unless another use of such funds is authorized in writing by OHCS. This remedy is in addition to any other remedies available to OHCS under this Agreement or otherwise.

2.4.3.2 Due to Overpayment. If OHCS makes overpayment of Grant Funds to Subgrantee in response to one or more funds requests, whether or not the underlying request(s) were inaccurate, Subgrantee shall repay such overpayment within thirty (30) calendar days of its discovery by Subgrantee or upon notice by OHCS, unless OHCS in writing designates an earlier time for repayment or authorizes another use by Subgrantee of such overpayment. This remedy is in addition to any other remedies available to OHCS under this Agreement or otherwise.

2.4.3.3 Return of Unexpended Funds. Within thirty (30) days following the end of the Performance Period or Termination of this Agreement, Subgrantee must return to OHCS all unexpended Grant Funds, unless required earlier in accordance with the applicable Program Elements.

3. Rollover Funds From a Prior Grant Agreement.

3.1 Subject to funding restrictions, Subgrantee may request in writing that financial assistance allocated, but not expended under a prior Master Grant Agreement, be allocated under this Agreement as an award of "rollover" grant funds.

3.2 Subject to funding restrictions, OHCS may, at its sole and absolute discretion, approve any award of rollover grant funds. Any rollover grant funds shall be subject to all terms and conditions of this Agreement and shall be subject to such terms and conditions of the prior Master Grant Agreement as OHCS may specify in its rollover approval.

Any request for an award of rollover grant funds by Subgrantee must be made in form and content satisfactory to OHCS.

4. Online Systems.

4.1 Subgrantee and its subrecipients must enter all appropriate and necessary data into OPUS (a web-based application developed by OHCS), ServicePoint, Allita HSM, or other OHCS-approved system (the "Sites") at the

time of client intake for all Federal, State, and private grant programs awarded by OHCS through this Agreement. OHCS will enter allocations to Subgrantee on a program by program expenditure category basis unless it determines otherwise. Exceptions are only allowed with prior written approval by OHCS.

4.2 Sites' Terms and Conditions. As a condition of the use of the Sites, Subgrantee and its subrecipients ("User") agrees to all OHCS terms and conditions contained in this Agreement, notices on the Sites, or as otherwise directed by OHCS. User agrees not to use the Sites for any unlawful purpose. OHCS reserves the right, at its discretion, to update or revise the Sites' terms of use. Continued use of the Sites constitutes acceptance of the Sites' terms and conditions.

4.3 Local Data Collection. Use of the Sites for additional reported "local" program data is at the entity's own risk. OHCS will not modify or otherwise create any screen, report or tool in the Sites to meet needs related to this local data.

4.4 Data Rights. Subgrantee hereby grants and will require and cause any subrecipient to grant OHCS the right to reproduce, use, display, adapt, modify, distribute, and promote the content in any form and disclose, as allowed by law, any or all of the information or data furnished to or received by OHCS directly or indirectly resulting from this Agreement. Subgrantee also shall use and shall require and cause its subrecipients to use Client Release forms and Privacy Policy forms (samples provided by OHCS) in connection with obtaining and transmitting client data.

4.5 Disclaimer of Warranties. Subgrantee understands and agrees, and shall require its subrecipients to agree, that all materials, information, software, products, and services included in or available through the Sites (the "Content") are provided "as is" and "as available" for use. The Content is provided without warranties of any kind, either express or implied, including but not limited to, implied warranties of merchantability, fitness for a particular purpose, or non-infringement. OHCS does not warrant that: (1) the content is accurate, reliable, or correct; (2) the Sites will be available at any particular time or location (3) any defects or errors will be corrected; or (4) the content is free of viruses or other harmful components. Use of the Sites is solely at the User's risk. User hereby accepts the risk of its use of the Sites, and of the use of the Sites by its subrecipients, and expressly waives any claims and causes of action against the State and OHCS.

4.6 Limitation of Liability. Subgrantee agrees that under no circumstances will OHCS be liable for any direct, indirect, punitive, incidental, special, or consequential damages that result from the use of, or inability to use the Sites. This limitation applies whether the alleged liability is based on contract, tort, negligence, strict liability, or any other basis, even if OHCS has been informed of the possibility of such damage.

4.7 Indemnification. Subject to applicable law, Subgrantee agrees, and shall require its subrecipients to agree, to defend, indemnify (consistent with ORS Chapter 180), and hold harmless OHCS and its employees, contractors, officers, and directors from all liabilities, claims, and expenses, including but not limited to attorney fees, that arise from use or misuse of the Sites. OHCS reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by Subgrantee, in which event Subgrantee will cooperate with OHCS in asserting any available defenses.

5. Fixed Assets. If applicable, Subgrantee shall, and shall cause its subrecipients to, maintain policies and procedures for the management of property and equipment that comply with all requirements of the applicable Code of Federal Regulations, 2 CFR Subtitle B with guidance at 2 CFR Part 200, and specific requirements of the source of funds. These regulations shall apply to all equipment purchased with OHCS funding, regardless of source of funds. The following practices are in addition to those otherwise required:

5.1 High Risk Items. Fixed assets with a value greater than \$5,000 will include computer equipment, electronic equipment, photography equipment, hand tools and other items.

5.2 Equipment. The title to all equipment as defined in 2 CFR Part 200, purchased in whole or in part with funds provided under this Agreement, shall rest with the Subgrantee. Property and equipment purchased with OHCS grant funds shall not be used for collateral or to secure financing.

5.3 Insurance. Subgrantee shall, at a minimum, provide the insurance coverage required by Oregon Revised Statute for automobiles and or equipment registration through Oregon Department of Transportation, Department of Motor

Vehicles, that has been acquired in whole or in part with funds provided under this Agreement owned by Subgrantee with OHCS named as an additional insured party in all such motor vehicles and or equipment. In its agreements with its subrecipients, Subgrantee shall require and cause its subrecipients to comply with the requirements of this Section.

5.4 Loaned Equipment / Property Disposition. All fixed assets owned by OHCS and loaned to Subgrantee under a standard agreement will remain the property of OHCS, regardless of their value. The disposition of all loaned equipment shall be readily available.

5.5 Disposal Requiring Prior Approval. When Subgrantee, or its subrecipients, wishes to dispose of equipment having an original cost of more than \$5,000, Subgrantee shall submit a written notification to the appropriate OHCS Program coordinator with a copy to the OHCS Financial Compliance Monitor. If OHCS consents, OHCS will provide instructions regarding the method of disposition. OHCS reserves the right to refuse to consent to such disposal and the right to object to the timing of each disposition. Such disposition, if permitted, shall be done in a manner consistent with the property management standards of equipment of OHCS from which the original funding was received. In the case of mixed funding sources, the most restrictive standards shall apply.

5.5.1 Items of equipment with a current per-unit, fair-market value of \$5,000 or less may be retained, sold, or otherwise disposed of upon written notification to the appropriate OHCS Program coordinator with a copy to OHCS Financial Compliance Monitor with no further obligation. The OHCS Program coordinator shall be notified of all title transfers, sales, and other methods of disposition. OHCS may review disposition records upon notification of Subgrantee.

6. Compliance and Monitoring.

6.1 Compliance.

6.1.1 Subgrantee will comply and will require and cause (including by contract) all subrecipients, vendors, contractors, and assigns to comply with this Agreement, including applicable Program Requirements.

6.1.2 Without limiting the generality of the foregoing, Subgrantee will comply and will require and cause its subrecipients, vendors, contractors, agents, and assigns to comply with all federal requirements, including but not limited to the Federal Funding Accounting and Transparency Act (FFATA) of 2006 (P.L. 109-282), provisions of which include, but are not limited to, a requirement for Subgrantees, subrecipients, and vendors to have a Data Universal Numbering System (DUNS) number and to maintain a current registration in the SAMs (System for Awards Management) database.

6.1.3 Without limiting the generality of the foregoing, Subgrantee expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. 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. Subgrantee shall, to the maximum extent economically feasible in performance of this Agreement, use recycled paper (as defined in ORS 279A.010(gg)), recycled PETE products (as defined in ORS 279A.010(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(ii)).

6.2 OHCS to Monitor Subgrantee.

6.2.1 OHCS, including its authorized representatives and authorized third parties, may monitor the activities and records of each Subgrantee and Subgrantee's subrecipients and vendors as it deems necessary or appropriate for, among other things, to ensure: (1) Subgrantee and its subrecipients comply with the terms of this Agreement, including but not limited to the Program Requirements, and that Grant Funds are used properly for authorized purposes hereunder; and (2) that performance goals are achieved as specified in this Agreement, including without limitation in the Community Plan, NOAs, and the Program Requirements, and that performance is to the satisfaction of OHCS.

6.2.2 OHCS' monitoring activities may include any action deemed necessary or appropriate by OHCS including, but not limited to the following: (1) the review (including copying) from time to time of any and all Subgrantee,

subrecipient, and Vendor files, records, and other information of every type arising from or related to performance under this Agreement; (2) arranging for, performing, and evaluating general and limited scope audits; (3) conducting or arranging for on-site and field visits and inspections; (4) review of Subgrantee fiscal and program reports, and requiring appropriate Request for Funds documentation as well as such other information and clarification as it deems appropriate, prior to providing a Request for Funding approval, whether in whole, in part, or otherwise; and (5) evaluating, training, providing technical assistance and enforcing compliance of Subgrantee, subrecipients, vendors, and their officers, employees, agents, contractors and other staff.

6.2.3 OHCS monitoring and enforcement activities may be conducted in-person, by telephone, and by other means deemed appropriate by OHCS. Monitoring will be done through contractors, agents, or other authorized representatives.

6.2.4 OHCS may, in its sole and absolute discretion, request assistance in monitoring from outside parties, including but not limited to the Oregon Secretary of State, the Oregon Attorney General, the federal government, and law enforcement agencies.

6.2.5 OHCS may require Subgrantee to perform some level of random audit of Program applications.

6.2.6 OHCS may release Subgrantee monitoring reports, agency audits, and any other compliance information to the Community Action Partnership of Oregon.

6.3 Subgrantee to Fully Cooperate. Subgrantee agrees to fully and timely cooperate with OHCS in performance of any and all monitoring and enforcement activities, including causing its subrecipients, vendors, and contractors to also cooperate by agreement. Failure by Subgrantee or any of its subrecipients or vendors to comply with this requirement is sufficient cause for OHCS to require special conditions, take such other action (including the exercise of available remedies) as it deems appropriate, and may be deemed by OHCS as a material failure by the Subgrantee to perform its obligations under this Agreement.

6.4 Subgrantee to Monitor Its Subrecipients.

6.4.1 At least once during the term of this Agreement and as otherwise directed by OHCS, Subgrantee will monitor the activities and expenditures of its subrecipients as is reasonable to ensure: (1) compliance with this Agreement, including the Program Requirements; and (2) achievement of this Agreement's performance goals, in OHCS' sole discretion.

6.4.2 Subgrantee's monitoring of its subrecipients must include: (1) and evaluation of each subrecipient's risk of non-compliance with federal statutes, regulations, and terms and conditions of any applicable subaward for purposes of determining the appropriate level and type of subrecipient monitoring; (2) a review of financial and performance reports; and (3) follow-up on all deficiencies pertaining to any involved federal funding in accordance with 2 CFR 200.331 and other applicable federal regulations, as updated from time to time.

6.5 OHCS Findings and Reports.

6.5.1 **Monitoring Visits; Reports.** During the term of this Agreement, OHCS may conduct monitoring visits, including review of Subgrantee and subrecipient files, records, and other information related to performance under this Agreement. OHCS generally will advise the Subgrantee as to its observations and findings generated by any monitoring visit, usually through an exit interview. Within sixty (60) days after an inspection, OHCS may provide Subgrantee with a written report of its findings from the inspection and may proscribe corrective action, which Subgrantee must timely satisfy.

6.5.2 **Ongoing Monitoring.** OHCS may continue to track and follow-up its monitoring findings and corrective actions with Subgrantee or its subrecipients through a tracking record. The tracking record may include, without limitation: findings, corrective actions, deliverables, due dates, responsible parties, actions taken, and final resolution. Subgrantees must resolve finding and other required corrective action actions within reasonable timeframe provided by OHCS.

7. Representations and Warranties.

7.1 Organization / Authority. Subgrantee represents and warrants that:

7.1.1 Subgrantee is duly organized and validly existing in the State of Oregon;

7.1.2 Subgrantee has all necessary rights, powers and authority under organizational documents and under Oregon Law to (i) execute this Agreement, (ii) incur and perform its obligations under this Agreement; and (iii) receive financing, including the Grant Funds, for the Program work;

7.1.3 This Agreement has been duly executed by Subgrantee and when executed by OHCS, constitutes a legal, valid, and binding obligation of Subgrantee enforceable in accordance with its terms;

7.1.4 If applicable and necessary, the execution and delivery of this Agreement by Subgrantee has been authorized by an ordinance, order, or resolution of its governing body, or voter approval, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings; and
7.1.5 There is no proceeding pending or threatened against Subgrantee before any court or governmental authority that if adversely determined would materially adversely affect the Program work or the ability of Subgrantee to carry out the Program work.

7.2 False Claims Act. Subgrantee acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) made by (or caused by) Subgrantee that pertains to this Agreement or to the Program work. Subgrantee 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. Subgrantee further acknowledges in addition to the remedies available to OHCS 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 Subgrantee.

7.3 No Limitation. The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Subgrantee.

8. Confidentiality.

8.1 Subgrantee must protect and must require and cause its subrecipients and vendors to protect the confidentiality of all information concerning clients and other applicants for and recipients of services funded by this Agreement. Neither Subgrantee nor its subrecipients or vendors may release or disclose any such information except as necessary for the administration of the program funded under this Agreement, as authorized in writing by the client, applicant or recipient of such services, or as required by law. Subgrantee, its subrecipients and its vendors must appropriately secure all records and files to prevent access by unauthorized persons.

8.2 Subgrantee must ensure and must require and cause its subrecipients and vendors to ensure that all its officers, employees, and agents are aware of and comply with this confidentiality requirement.

9. Insurance Requirements. Subgrantee will provide all necessary General Liability and Automotive insurance required by Oregon Law and satisfactory to OHCS to perform services under this Grant Agreement, and provide proof of coverage upon request by OHCS. In no event shall General Liability insurance coverage be less than \$500,000.00. In no event shall Automotive insurance coverage be less than \$500,000.00.

All employers, including Subgrantee, that employ subject workers as defined in ORS 656.027, will comply with ORS 656.017 and will provide workers’ compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Subgrantee will obtain employers’ liability insurance coverage limits of not less than \$500,000.00. Subgrantee will require and ensure that each of its subcontractors complies with these requirements.

10. Subgrantee Status and Certifications.

10.1 Subgrantee shall perform all work under this Agreement as an independent contractor. Subgrantee is not an officer, employee or agent of OHCS or the State, as those entities are respectively defined in ORS chapter 456 and in ORS 30.265, with respect to work performed under this Agreement.

10.2 Subgrantee agrees that insurance coverage, whether purchased or by self-insurance, for Subgrantee’s agents, employees, officers and/or subcontractors is the sole responsibility of Subgrantee.

10.3 Subgrantee certifies that it is not employed by or contracting with the federal government for the work covered by this Agreement.

10.4 Subgrantee certifies that it has established or before starting the Program work will establish a formal statement of nondiscrimination in its employment policy and that it enforces such policy.

10.5 Subgrantee certifies to the best of its knowledge and belief that neither the Subgrantee nor any of its principals, officers, directors, or employees:

10.5.1 Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from

covered transactions by any federal department or OHCS;

10.5.2 Has within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract related to a public transaction; violation of federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

10.5.3 Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in subsection 10.5.2 of this Exhibit B above;

10.5.4 Has within a three-year period preceding this Agreement had one or more public transactions (federal, State or local) terminated for cause or default; and

10.5.5 Is included on the list titled “**Specially Designated Nationals and Blocked Persons**” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

11. Governing Law; Jurisdiction. This Agreement is 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 OHCS or any other agency or department of the State of Oregon, or both, and Subgrantee that arises from or related to this Agreement must 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 will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event may this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. SUBGRANTEE, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF SUCH COURTS.

12. Default.

12.1 Subgrantee. Subgrantee will be in default under this Agreement upon the occurrence of any of the following events:

12.1.1 Subgrantee fails to use the Grant Funds for the intended purpose described in applicable Program Elements or otherwise fails to perform, observe, or discharge any of its covenants, agreements, or obligations under this Agreement;

12.1.2 Subgrantee fails to comply timely with any material obligation under this Agreement, including but not limited to any OHCS directive or term of a corrective action plan;

12.1.3 Any representation, warranty, or statement made by Subgrantee in this Agreement or in any documents or reports relied upon by OHCS to measure the Program work, the expenditure of Grant Funds, or the performance by Subgrantee is untrue in any material respect when made; or

12.1.4 A petition, proceeding or case is filed by or against Subgrantee under any federal or state bankruptcy, insolvency, receivership, or other law relating to reorganization, liquidation, dissolution, winding-up, or adjustment of debts; in the case of a petition filed against Subgrantee, Subgrantee acquiesces to such petition or such petition is not dismissed within twenty (20) calendar days after such filing, or such dismissal is not final or is subject to appeal; or Subgrantee becomes insolvent or admits its inability to pay its debts as they become due, or Subgrantee makes an assignment for the benefit of its creditors.

12.2 OHCS. OHCS will be in default under this Agreement if, after fifteen (15) days written notice specifying the nature of the default, OHCS fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement; provided, however OHCS will not be in default if OHCS fails to disburse Grant Funds because there is insufficient expenditure authority for, or moneys available from, the funding source.

13. Remedies.

13.1 OHCS Remedies.

13.1.1 In the event Subgrantee is in default under Section 12.1 of this Exhibit B, OHCS 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: (i) termination of this Agreement under Section 14.2 of this Exhibit B; (ii) modifying any NOA under this Agreement; (iii) reducing or withholding payment for the Program work that is deficient or that Subgrantee has failed to complete by any scheduled deadlines, including disallowing costs; (iv) suspending or recouping

payments, or both; (v) requiring Subgrantee to complete, at Subgrantee's expense, corrective action or additional activities necessary to satisfy its obligations or meet performance standards under this Agreement, in OHCS' sole discretion; (vi) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; (vii) exercise of its right of recovery of overpayments under this Agreement; (viii) declaring Subgrantee ineligible for the receipt of future awards from OHCS; (ix) criminal action for misstatements or fraud, misfeasance, or other culpable behavior, and (x) investigation, audit, and/or sanction by other governmental bodies.

13.1.2 Subgrantee acknowledges and agrees that any such remedies are subject to Article XI, Section 7 of the Oregon Constitution, the Oregon Tort Claims Act, and the terms and conditions of any other applicable provision of this Agreement.

13.1.3 No Waiver. No failure or delay by OHCS to enforce any provision of this Agreement will constitute a waiver by OHCS of that or any other provision, nor will any single or partial exercise of any right, power, or privilege under this Agreement preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege.

13.1.4 Survival. Remedies provided under this Agreement or otherwise will survive termination of this Agreement.

13.2 Subgrantee Remedies. In the event OHCS is in default under Section 12.2 of this Exhibit B and whether or not Subgrantee elects to terminate this Agreement, Subgrantee's sole monetary remedy will be, within any limits set forth in this Agreement, reimbursement of Program work completed and accepted by OHCS and authorized expenses incurred, less any claims OHCS has against Subgrantee. In no event will OHCS be liable to Subgrantee for any expenses related to termination of this Agreement or for anticipated profits.

14. Termination.

14.1 Mutual. This Agreement may be terminated at any time by mutual written consent of the Parties.

14.2 By OHCS. OHCS may terminate this Agreement as follows:

14.2.1 At OHCS' discretion, upon thirty (30) days advance written notice to Subgrantee;

14.2.2 Immediately upon written notice to Subgrantee, if OHCS fails to receive funding, or appropriations, limitations, or other expenditure authority at levels sufficient in OHCS' reasonable and administrative discretion, to perform its obligations under this Agreement;

14.2.3 Immediately upon written notice to Subgrantee, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that OHCS' performance under this Agreement is prohibited or OHCS is prohibited from funding the Agreement from the funding source; or

14.2.4 Immediately upon written notice to Subgrantee, if Subgrantee is in default under this Agreement and such default remains uncured fifteen (15) days after written notice thereof to Subgrantee.

14.3 By Subgrantee. Subgrantee may terminate this Agreement as follows:

14.3.1 If Subgrantee is a governmental entity, immediately upon written notice to OHCS, if Subgrantee fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to perform its obligations under this Agreement.

14.3.2 If Subgrantee is a governmental entity, immediately upon written notice to OHCS, if applicable laws, rules, regulations or guidelines are modified or interpreted in such a way that the Program work is prohibited by law or Agreement is prohibited from paying for the Program work from the Grant Funds or other planned funding; or

14.3.3 Immediately upon written notice to OHCS, if OHCS is in default under this Agreement and such default remains uncured fifteen (15) days after written notice thereof to OHCS.

14.4 Cease Activities. Upon receiving a notice of termination of this Agreement, Subgrantee must immediately cease all activities under this Agreement, unless OHCS expressly directs otherwise in such notice. Upon termination, Subgrantee must deliver to OHCS all materials or other property that are or would be required to be provided to OHCS under this Agreement or that are needed to complete the Program work that would have been performed by Subgrantee.

15. Miscellaneous.

15.1 Conflict of Interest.

15.1.1 Generally. By signature to this Agreement, Subgrantee declares and certifies the award of this Agreement

and the Program work, create no potential or actual conflict of interest, as defined by ORS Chapter 244, for a director, officer, or employee of Subgrantee.

15.1.2 Conflict of Interest Policy and Reporting. A conflict of interest exists if, among other things, a decision or recommendation could affect the finances of the public official or the finances of a relative. If a conflict of interest exists, the public official must always give notice of the conflict, and in some situations the public official is restricted in their ability to participate in the matter that presents the conflict of interest. Subgrantee will timely report to OHCS any perceived or actual conflict of interest. Subgrantee certifies it has established a conflict of interest policy that outlines the process for disclosing in writing any potential conflict of interest and such policy must be provided to OHCS upon OHCS' request, or as otherwise requested during a Subgrantee audit.

15.2 Nonappropriation. OHCS' obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon OHCS receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OHCS, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of OHCS.

15.3 Amendments.

15.3.1 OHCS reserves the right to add or amend Implementation Reports and NOAs. Otherwise, the Parties may not waive, supplement, or amend the terms of this Agreement, in any manner whatsoever, except by written amendment signed by the Parties and for which all necessary OHCS approvals have been obtained.

15.3.2 Subgrantee's proposed changes to or additions of a Implementation Report must be submitted to OHCS in writing and require the prior written approval of OHCS before Subgrantee may commence a change.

15.3.3 All federal terms and conditions included in this Agreement at time of original Agreement execution may be amended from time to time by the federal grantor or regulator of funds.

15.4 Notices. Except as otherwise expressly provided in this Agreement, any notices to be given under this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Grant Manager at the physical address or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.

15.5 Required Notifications to OHCS. In addition to the requirements provided elsewhere in this Agreement, Subgrantee will immediately report changes in Key Personnel including Fiscal, Program, and Executive Level Leadership.

15.6 Survival. All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 2, 4.6, 4.7, 11, 13, 15.6, 15.7 and 15.10 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

15.7 Headings. The headings in this Agreement are for convenience only and in no way define, limit, or describe the scope intent of any provisions of this Agreement.

15.8 Severability. The Parties agree 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.

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

15.10 Indemnity. Subject to applicable law, Subgrantee will and will require by contract that its subrecipients will,

defend, save, hold harmless, and indemnify (consistent with ORS Chapter 180) the State of Oregon and OHCS and their officers, employees and agents from and against all claims, suites, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or, relating to the activities of Subgrantee or its officers, employees, subrecipients, subcontractors, or agents under this Agreement.

15.11 Attorney Fees. In the event a lawsuit of any kind is instituted on behalf of OHCS or the Subgrantee with respect to this Agreement, or any right or claim related thereto, including but not limited to the collection of any payment due under this Agreement or to obtain performance of any kind under this Agreement, the prevailing party is, to the extent permitted by law, entitled to its reasonable attorney fees incurred before and during trial, on appeal, in arbitration, in bankruptcy, and in such other forum or proceeding appropriate thereto, together with such additional terms as the court or hearings officer may adjudge for reasonable costs and disbursements incurred therein. Reasonable fees will not exceed the rate charged to OHCS by its attorneys.

15.12 Compliance with Law. In connection with their activities under this Agreement, the Parties must comply with all applicable federal, state, and local laws. While OHCS will make reasonable efforts to update its Program guidance and notify the Subgrantee thereof, the Subgrantee is ultimately responsible for maintaining awareness of and compliance with updates to federal law governing the Program.

15.13 No Third-Party Beneficiaries. OHCS and Subgrantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

15.14 Assignment and Successors. Subgrantee may not assign or transfer its interest in this Agreement without the prior written consent of OHCS and any attempt by Subgrantee to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. OHCS' consent to Subgrantee's assignment or transfer of its interest in this Agreement will not relieve Subgrantee of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

15.15 Contracts and Subgrants. Subgrantee may not, without OHCS' prior written consent, enter into any contracts or subgrants for any of the Program work. OHCS' consent to any contract or subgrant will not relieve Subgrantee of any of its duties or obligations under this Agreement.

15.16 Time of the Essence. Time is of the essence in the performance of this Agreement.

15.17 No Limitations on Actions of OHCS in Exercise of Its Governmental Powers. Nothing in this Agreement is intended, nor will it be construed, to in any way limit the actions of OHCS in the exercise of its governmental powers. It is the express intention of the Parties that OHCS will retain the full right and ability to exercise its governmental powers with respect to the Subgrantee, the Grant Funds, and the transaction contemplated by this Agreement to the same extent as if it were a party to this Agreement, and in no event will OHCS have any liability in contract arising under this Agreement by virtue of any exercise of its governmental powers.

15.18 Records Maintenance and Access. Subgrantee must, and must require and cause its subrecipients to, maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Subgrantee must, and must require and cause its subrecipients to, maintain any other records, whether in paper, electronic or other form, pertinent to this Agreement in such a manner as to clearly document Subgrantee's and subrecipients' performance. All financial records and other records, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records". Subgrantee acknowledges and agrees OHCS and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Subgrantee must retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following 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. In its agreements with subrecipients, Subgrantee shall require and cause its subrecipients to comply with the requirements of this Section and to grant right of access to and ownership by OHCS of the subrecipients' books and records related to this Agreement.

15.19 Audits.

15.19.1 OHCS Required Audits. As required by OHCS, Subgrantee will and will cause its subrecipients to, submit to OHCS financial and compliance audits satisfactory to OHCS for such periods and programs covered by this Agreement.

15.19.2 Federal Audits. If Subgrantee expends \$750,000 or more in federal funds (from all sources) in a fiscal year, Subgrantee will have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200 and applicable federal regulations.

15.20 Headings. The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

15.21 Agreement Documents. This Agreement consists of the following documents, which are incorporated by this reference and listed in descending order of precedence:

- This Agreement less all Exhibits
- Exhibit D Federal Assurances
- Exhibit B Terms and Conditions
- Exhibit C Special Provisions
- Exhibit F Program Elements
- Exhibit A Definitions
- Exhibit E Historic Preservation

15.22 Merger. This Agreement, all Exhibits, and all incorporated documents, 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.

15.23 Waiver. No waiver or consent under this Agreement binds either Party unless writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

15.24 Diversity, Equity, and Inclusion. OHCS and Subgrantee commit to intentional, data driven approach to reduce disparities in housing and social service provisions. OHCS commits to creating a system to analyze OHCS funded programs and remove identified barriers to accessing opportunities within those programs.

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MASTER GRANT AGREEMENT 2021-23

EXHIBIT C

SPECIAL PROVISIONS

1. Procurement.

Except as specifically provided in this Agreement, OHCS does not waive or herein provide a waiver of any regulations, requirements and/or procedures applicable to use of grant funds. For example, 2 CFR Subtitle B with guidance at 2 CFR Part 200 requires, among other things, Subgrantee's procurement procedures to mandate that all procurement transactions be conducted, as practical, to provide open and free competition. If a proposal identifies a specific entity to provide the services, the OHCS award does not provide the justification or basis to sole-source the procurement.

Subgrantee shall develop and maintain policies and procedures for procuring, by purchase, rental/lease or otherwise, any equipment, supplies, or other goods and services. Subgrantee must ensure that policies reflect guidance at 2 CFR, Part 200 and related regulations, as well as any applicable federal regulations with respect to The Grants Management Common Rule for procurement of all goods or services.

If allowable under this Agreement, with respect to applicable Program Element for which funds will be expended and approved or pre-approved as necessary or required by OHCS:

a. **Contracts for Goods and Services.**

1. Subgrantee may contract for services purchased in whole or in part with funds provided under this Agreement. Contractor must be of recognized professional expertise, certification, license, registration, or stature in the relevant field where required. Contractor shall further be registered to do business in the State of Oregon, as required by Oregon Law.
http://egov.sos.state.or.us/br/pkg_web_name_srch_inq.login.
2. In addition, purchases of Fixed Assets must adhere to requirements set forth in 2 CFR Part 200, Subpart D. When Subgrantee purchases any motor vehicle, or any equipment or other property costing more than \$5,000 per unit with funds provided in whole or in part under this Agreement, Subgrantee shall:
 - a. Provide written request to OHCS Program Coordinator prior to the purchase and receive required pre-approval from OHCS specific to the amount and source of funds that will be expended.
 - b. Comply with Exhibit B, Section 5, Fixed Assets.

b. **Construction Contracts.**

1. Subgrantee shall comply with, and OHCS' performance hereunder is conditioned upon Subgrantee's compliance with, the terms of this Agreement, including without limitation the provisions of Oregon Revised Statute Chapters 279B and 279C, as amended from time to time.
2. All Construction Contractors must be currently licensed and bonded through the State of Oregon Construction Contractors Board, <https://www.oregon.gov/ccb/Pages/index.aspx>

2. Wage Determinations.

Subgrantee shall, and shall cause and require its Subrecipients, contractors, and subcontracts, to fully comply with, on projects where DBRA prevailing wage requirements must be paid, the requirements set out in the DOL regulations at 29 CFR Parts 1, 3, and 5 as applicable. In accordance with 29 CFR Part 1, federal agencies directly contracting for weatherization projects or providing assistance under the ARRA to other entities for such projects must include the standard DBRA contract clauses found in 29 CFR 5.5(a) in their bid solicitations, assistance agreements, and the resulting

contracts and grants, and must require that those requirements flow down to any contracts or subcontracts for the performance of the work. See also Exhibit E, Davis-Bacon and Related Acts Provisions and Procedures; www.wcol.gov; and 29 CFR 5.5 - Contract provisions and related matters. Subgrantee shall, and shall cause and require its Subrecipients, contractors, and subcontracts, to fully comply with, on projects where Oregon's prevailing wage rate law, ORS 279C.800 to 279C.870 (PWRL) requirements must be paid, the requirements established therein and as established by the Bureau of Labor and Industry (BOLI), which administers the PWRL.

3. Emerging Small, Minority, Women-Owned Business Objectives.

It is an important business objective of OHCS to promote the economic enhancement of small businesses (SBE), minority businesses (MBE), and women-owned businesses (WBE). Subgrantee shall have a policy that incorporates federal requirements under 2 CFR Part 200.321, including processes for placing qualified small and minority businesses and women's business enterprises on solicitation lists and dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.

Subgrantee may use the COBID Certification Management System to assist in soliciting quotes or invite bids from MWESBs. <https://oregon4biz.diversitysoftware.com/>

4. Subrecipient Agreements (Subawards).

Subgrantee shall not enter into any agreement or renewal with Subrecipients without prior written approval of OHCS Program Coordinator(s) as outlined in Exhibit B, Section 15.15. OHCS' approval of any subrecipient shall not relieve Subgrantee of any of its duties or obligations under this Agreement.

Subgrantee shall require and cause its subrecipients to comply with all applicable provisions of this Agreement between OHCS and Subgrantee, each of which must be specifically incorporated into the subrecipient agreements in a manner satisfactory to OHCS. OHCS reserves the right to request that any subrecipient agreement be submitted for review and approval by OHCS within ten (10) business days from the date of written request.

Subgrantee shall require and cause that all of its subrecipient agreements related to this Agreement must include language specifying that such agreements are subject to termination upon such a directive to Subgrantee by OHCS and that OHCS shall not be liable to any of the parties of that agreement or to other persons for directing that such agreement be terminated.

Subgrantee shall have a written agreement with each subrecipient that is consistent with this Agreement, including without limitation, relevant Exhibits and Implementation Reports that identify:

- a. The services or benefits that the Subrecipient must provide when delivering the program.
- b. The laws and regulations with which the subrecipient must comply under the terms of the agreement (including but not limited to program specific requirements such as eligibility criteria and matching obligations, public policy for protecting civil rights and the environment, written procedures for appeal by clients of subrecipient determinations, government-wide administrative mandates affecting the Subrecipient's accounting and record keeping systems, and local laws imposed by Subgrantee).
- c. The Subgrantee's and OHCS' monitoring rights and responsibilities and the methods used by Subgrantee for monitoring.
- d. A provision to certify that the Subrecipient is an independent contractor and not an agent of OHCS or of Subgrantee.

5. Subgrant or Contractual Determination.

A Subrecipient is a state government, local government, or nonprofit organization that expends subawarded funds received by Subgrantee from OHCS under this Agreement to carry out a program. Subgrantee must determine whether relevant payments made or to be made by it in furtherance of this Agreement constitute an award under a subgrant received by a Subrecipient or a payment for goods and services under a procurement contract received by a contractor. Determination must be made using the criteria set forth in 2 CFR Part 200.331.

a. Use of Judgment in Making Determination.

There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subgrant or contractual relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be uniformly present. Accordingly, prudent judgment shall be exercised by Subgrantee and should be used in determining whether an entity with which it contracts to accomplish its performance under this Agreement is a Subrecipient or vendor.

b. Applicability to For-profit Subrecipients.

Subgrantee (as the pass-through entity) shall establish reasonable requirements, as necessary, to ensure compliance by for-profit subrecipients. Consequently, Subgrantee should describe in any agreements with for-profit subrecipients the applicable compliance requirements and the for-profit subrecipient's compliance responsibilities. Methods to ensure compliance for federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract and post-award audits.

c. Compliance Responsibility for Contractors.

In most cases, the Subgrantee's or other auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt and payment for goods and services comply with laws, regulations and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to contractors. However, the Subgrantee or other auditee shall be responsible for ensuring compliance for contractor transactions that are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed to determine program compliance. Also, when these contractor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations and the provisions of contracts or grant agreements.

Regardless of whether goods or services are provided by a subrecipient or contractor, Subgrantee is still responsible for ensuring compliance with all grant requirements including but not limited to tracking and reporting requirements by the Agreement.

6. Responsibility for Work.

Subgrantee shall timely perform all Work identified in this Agreement consistent with its terms and conditions, including without limitation, the Work required with respect to the applicable Program Elements, Implementation Reports, and NOA's. OHCS may add additional approved Implementation Reports and NOAs to Exhibit A of this Agreement from time to time with the written approval of Subgrantee.

7. Implementation Report(s) and Budget(s).

Each Implementation Report is unique to the Subgrantee. It must be consistent with and reflect the purposes of the related Program Elements and the methods proposed by the Subgrantee and its subrecipients, in detail acceptable to OHCS, to administer and/or deliver the Work associated with the requirements of the applicable Program Elements. Implementation Report Budgets must reflect the manner, in detail acceptable to OHCS that related grant funds will be employed to accomplish the corresponding Work and are subject to corresponding NOAs.

Subgrantee must request and receive prior written approval from OHCS for amendments to or deviations from its approved Implementation Reports. OHCS may give or withhold such approval at its sole discretion. OHCS may allow the combining of applicable Implementation Reports at its sole discretion.

Subgrantee shall perform all Work in accordance with the terms and conditions of this Agreement, including but not limited to applicable Program Elements, Implementation Reports, and NOAs, in a manner satisfactory to OHCS.

8. Maintenance of Programmatic Capacity and Non-Compliance.

Subgrantee shall provide for and maintain the capacity for administration and performance of all Work required under this Agreement so as to result in a timely usage of grant funds.

OHCS remedies for Subgrantee non-compliance with any Work or other Agreement requirements (including all applicable Program Requirements), including for untimely usage of grant funds, may include, among other things, the withholding of requested grant funds or the reduction and redistribution of current or future funding allocations. OHCS may also impose conditions to specific grants received by Subgrantee in the event of reoccurring non-compliance on part of Subgrantee.

9. Financial Integrity.

Subgrantee shall be responsible for financial integrity of accounting records and compliance with the following requirements in addition to those otherwise required under this Agreement:

- a. Subgrantee shall and shall cause its subrecipients (including by contract) to, prepare and maintain accurate financial records documenting all expenditures made from funds provided under this Agreement. These records shall include financial and audit reports for the applicable accounting period for the applicable Program Element, including adjustments to reconcile the accounting records.
- b. Subgrantee shall reimburse expenditures of subrecipients under this Agreement only if they are:
 1. Named as a subrecipient receiving grant funds in the OHCS approved Implementation Report.
 2. In payment of eligible activities or services performed under this Agreement.
 3. In payment of services performed or supplies delivered during the applicable Program Element period;
 4. In the aggregate not in excess of 100% of the funds provided to the respective applicable Program Element under this Agreement; and
 5. Not for duplicate payment for the same activities or services under both this Agreement and any other contract or agreement with Subrecipients.
- c. Subgrantee shall pay its subrecipients within thirty (30) days of the date of requests for payment.
- d. Subgrantee shall maintain documentation of its monitoring of subrecipients. The documentation shall include, but not be limited to:
 1. An agreement that complies with the requirements of this Agreement.
 2. Documentation of the non-profit status of the subrecipient; and
 3. Copies of all of the Subrecipients audits performed under the requirement of 2 CFR Subtitle B with guidance at 2 CFR, Part 200, as well as applicable supplemental regulations, if the subrecipient is required to have such an audit.
 4. Documentation of follow up that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award as detected through audits, on-site reviews, and other means.

5. Documentation of other methods used by Subgrantee for monitoring subrecipient activities.
- e. Subgrantee shall maintain an Accounting System which conforms with the following requirements:
 1. Expenditures shall be segregated by line-item category within the accounting system of Subgrantee or subrecipient, as the case may be, and reported on the required fiscal reports.
 2. Funds received together with any income that is attributable to funds provided thereby shall be identified and segregated for expenditures relating to the Program Elements for which the original funds were provided. Any allocation methodology shall comply with any requirements applicable to that entity or Program Element.
 3. Receipts that offset or reduce expense items allocable to the Federal award as direct or indirect costs must be credited to the federal award either as a cost reduction (reduction of expense) or cash refund, as appropriate.
 - f. Subgrantee shall develop and maintain a policy that describes all direct and indirect methods of cost allocation that are applicable to OHCS grants.

OHCS may, in its sole discretion, reduce Subgrantee funding and redistribute such grant funding to other Subgrantees. Adjustments pursuant to this subsection may be implemented by means of the Notices of Allocation (NOA) described in this Agreement. This remedy is in addition to any other remedy allowed OHCS under this Agreement.

10. Programmatic Integrity

Subgrantee shall be responsible for programmatic integrity and compliance with the programmatic intent including but not limited to the following requirements:

Subgrantee shall provide and maintain adequate resources necessary to ensure that all staff, Subgrantee and subrecipient, are adequately trained to perform under this Agreement including, but not limited to the training in processing of eligibility determinations and authorizations or other programmatic and/or grant compliance requirements.

Subgrantee shall comply with programmatic regulations and guidelines as detailed in Exhibit B, Standard Terms and Conditions.

Subgrantee shall have a written procedure for the handling of client appeal of determinations, acceptable to OHCS.

11. Reporting

In addition to specific reporting requirements addressed elsewhere in this Agreement and, including its Exhibits and Attachments, Subgrantee shall and shall cause its subrecipients (including by contract) to:

Submit the required reports so that they are received by OHCS on or before the due dates specified herein this Agreement, as outlined in the applicable Implementation Report or otherwise, as newly required by any provider of funding under this Agreement, or as otherwise required by OHCS. Subgrantee shall require its subrecipients (including by contract) to submit the required reports to Subgrantee in sufficient time to allow Subgrantee to fulfill its reporting obligations to OHCS.

All reports shall be timely, complete, accurate and satisfactory to OHCS as well as in the format required by OHCS. No funding pursuant to an implementation report will be forthcoming until such implementation report has been approved by OHCS. OHCS reserves the right to require modifications to submitted implementation reports. Funding also may be subject to receipt and approval of other reporting under this Agreement.

Reports must agree with the accounting records maintained by Subgrantee and/or its Subrecipients and be certified by the chief executive officer or their designee of the Subgrantee or its subrecipients, as the case may be.

FSRs (Financial Status Reports) are due to OHCS on the 20th of the month following the end of a quarter. All final reports shall be submitted by Subgrantee so as to be received by OHCS on or before the 60th day following the last day of the applicable Program Element period, or the date that all activities funded by this Agreement for that Program Element are completed, whichever is earlier.

If Subgrantee fails to produce or timely submit reports satisfactory to OHCS, OHCS may withhold any or all reimbursement requests of Subgrantee under this Agreement or any other contract or agreement in effect between OHCS and Subgrantee except as expressly limited by law. OHCS also may reduce, suspend, terminate and/or redistribute any or all grant funds due to Subgrantee failure to produce or timely submit reports satisfactory to OHCS.

12. Eligibility Determination.

Subgrantee shall make eligibility determinations for its respective Program Element funds in a form and manner prescribed or authorized by OHCS.

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MASTER GRANT AGREEMENT 2021-23

EXHIBIT D

FEDERAL ASSURANCES; TERMS AND CONDITIONS

Subgrantee hereby assures, warrants, covenants, and certifies that with respect to any federal funds disbursed to it under this Agreement:

A. Application, Acceptance and Use of Federal Funds. Use, Compliance with Federal Law; Subgrantee shall comply with all applicable Federal regulations, policies, guidelines, and requirements, as may be modified from time to time, as they relate to the application, and use of all federal funds under this Agreement which may include, but are not limited to 2 CFR Subtitle B with guidance at 2 CFR, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (OMB Super Circular effective December 23, 2014). The U.S. Treasury has supplemented the foregoing at Section 501(a) of Division N of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 and U.S. Treasury interpretive guidance.

B. Further Assurances. As the duly authorized representative of the Subgrantee, I assure, warrant, covenant, and certify that the Subgrantee, in addition to complying with 2 CFR Subtitle B with guidance at 2 CFR, Part 200, 2 CFR Part 300, and Section 501(a) of Division N of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 and U.S. Treasury interpretive guidance, shall comply and, require all Subrecipients and Vendors, as applicable, to comply with the following federal requirements, as they may be amended from time to time.

GENERAL ASSURANCES

1. Miscellaneous Federal Provisions. Subgrantee shall comply and require all subrecipients to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, Subgrantee expressly agrees to comply and require all subrecipients 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, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, (c) the Age Discrimination in Employment Act of 1967, and the Age Discrimination Act of 1975, (d) Title IX of the Education Amendment of 1972, (e) the Drug Abuse Office and Treatment Act of 1972, (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, (g) Section 523 and 527 of the Public Health Service Act of 1912, (h) Title VIII of the Civil Rights Act of 1968, (i) the Hatch Act (U.S.C. 1501-1508 ad 7328), (j) Davis-Bacon Act (40 U.S.C. 276a to 276a7), (k) the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), (l) the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), (m) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to this Agreement and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.

2. Equal Employment Opportunity. If this Agreement, including amendments, is for more than \$10,000, then Subgrantee shall comply and require all subrecipients to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended.

3. Clean Air, Clean Water, EPA Regulations. If this Agreement, including amendments, exceeds \$150,000 then Subgrantee shall comply and require all subrecipients 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 Agency, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Subgrantee shall include and require all subrecipients to include in all Agreements with subrecipients receiving more than \$150,000, language requiring the subrecipient to comply with the federal laws identified in this section.

4. Other Environmental Standards. Subgrantee shall comply and require all subrecipients to comply with all applicable environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order 11514; (b) protection of wetlands pursuant to Executive Order 11990; (c) evaluation of flood hazards in flood plains in accordance with Executive Order 11988; (d) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et. seq.); (e) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (f) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (g) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

5. Energy Efficiency. Subgrantee shall comply and require all subrecipients 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).

6. Truth in Lobbying. By signing this Agreement, the Subgrantee certifies, to the best of the Subgrantee's knowledge and belief that:

- a.** No federal appropriated funds have been paid or will be paid, by or on behalf of Subgrantee, 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 Subgrantee shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- c.** The Subgrantee 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 Section 1352, Title 31 of the 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.

e. No part of any federal funds paid to Subgrantee 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 Subgrantee 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 Subgrantee 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.

7. Audits.

a. Subgrantee shall comply, and require any subrecipient to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.

b. If Subgrantee receives federal awards in excess of \$750,000 in a fiscal year, Subgrantee is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Copies of all audits must be submitted to Agency within 30 days of completion.

c. Subgrantee shall save, protect and hold harmless Agency from the cost of any audits or special investigations performed by the Secretary of State with respect to the funds expended under this Agreement. Subgrantee acknowledges and agrees that any audit costs incurred by Subgrantee as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Subgrantee and State.

8. Debarment and Suspension. Subgrantee shall not permit any person or entity to be a subrecipient 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. Subrecipients 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. Drug-Free Workplace. Subgrantee shall comply and cause all subrecipients to comply with the following provisions to maintain a drug-free workplace: (i) Subgrantee certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Subgrantee's workplace or while providing services to Agency clients. Subgrantee's notice shall specify the actions that will be taken by Subgrantee against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Subgrantee's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify Agency within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any subrecipient to comply with subparagraphs (i) through (vii) above; (ix) Neither Subgrantee, or any of Subgrantee's employees, officers, agents or subrecipients may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Subgrantee or Subgrantee's employee, officer, agent or subrecipient has used a controlled substance, prescription or non-prescription medication that impairs the Subgrantee or Subgrantee's employee, officer, agent or subrecipient's performance of essential job function or creates a direct threat to Agency clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of the Agreement.

10. Federal Intellectual Property Rights Notice. The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work 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 Subgrantee 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 Subgrantee, subrecipient 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.

11. Super Circular Requirements. 2 CFR Part 200, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, including but not limited to the following:

a. **Property Standards.** 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.

b. **Procurement Standards.** When procuring goods or services (including professional consulting services), applicable state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C or 2 CFR §§ 200.318 through 200.326, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, as applicable.

c. **Contract Provisions.** The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit, are, to the extent applicable, obligations of Subgrantee, and Subgrantee shall also include these Agreement provisions in its contracts with non-Federal entities.

12. Federal Whistleblower Protection. Recipient shall comply, and ensure the compliance by subcontractors or subrecipients, with 41 U.S.C. 4712, Enhancement of contractor protection from reprisal for disclosure of certain information. Therefore, in part, Subgrantee, its subrecipients, and contractors shall, inform its or their employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC 4712.

13. System for Award Management (SAM) reporting (41 USC § 2313). The Subgrantee must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov>. This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM. The Subgrantee also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subrecipients"), including restrictions on subawards to entities that do not acquire and provide (to the Subgrantee) the unique entity identifier required for SAM registration.

14. Requirement to report breach of personally identifiable information (PII) per OMB M-17-12. The Subgrantee (and any subrecipient at any tier) must have written procedures in place to respond in the event of breach (as defined in OMB M-17-12) if it (or a subrecipient)-- 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of personally identifiable information (PII) (as defined in 2 C.F.R. 200.79) within the scope of a grant-funded program or activity, or 2) uses or operates a Federal information system. The Subgrantee's breach procedures must include a requirement to report actual or imminent breach of PII to Grantor no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

MASTER GRANT AGREEMENT 2021-2023

EXHIBIT E

HISTORIC PRESERVATION

1. Introduction

OHCS has entered into a Programmatic Agreement (“**Programmatic Agreement**”) with the United States Department of Energy (“**USDOE**”), Oregon State Historic Preservation Office (“**ORSHPO**”) and the Advisory Council on Historic Preservation (“**ACHP**”) regarding properties affected by use of federally funded state weatherization assistance.

OHCS has determined that the administration of these programs may have an affect on properties included in or eligible for inclusion in the National Register of Historic Places (National Register) and has consulted with ORSHPO pursuant to 36 CFR 800.13 of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470F).

2. Stipulations

OHCS and Subgrantee agree that the programs will be administered in accordance with the following stipulations to satisfy the Section 106 responsibilities for all individual undertakings of the weatherization assistance.

A. APPLICABILITY

Subgrantee shall ensure that the review process established by the Programmatic Agreement will be completed prior to weatherization measures being installed. Undertakings that involve properties greater than fifty (50) years old and are not listed in Section B- Exempt Activities, shall be submitted to the ORSHPO for review in accordance with this agreement.

B. EXEMPT ACTIVITIES - PROJECTS NOT REQUIRING REVIEW BY ORSHPO

All undertakings will be done in accordance with applicable local building codes or the International Building Code, where applicable. In accordance with 36 CFR 800.3(a)(1), the following undertakings have been determined to have no potential to cause effects on historic properties:

1. Projects affecting properties less than fifty (50) years old at the time the work takes place; provided it has not been determined to be eligible under National Register Criterion Consideration G for exceptional significance (36 CFR 60.4).
2. Exterior Work
 - a. Air sealing of the building shell, including caulking, weather-stripping, window glazing and in-kind glass replacement on windows and doors, and installing thresholds in a manner that does not harm or obscure historic windows or trim, or prevent them from operating.
 - b. Thermal insulation, such as non-toxic fiberglass and foil wrapped, in walls, floors, ceilings, attics, and foundations in a manner that does not harm or damage historic fabric.
 - c. The installation of dense pack wall insulation when the following conditions are met:
 - i. The installation is performed by a qualified contractor who follows the standards and guidelines that OHCS has implemented for dense pack insulation (dry installation) and must meet the maximum air permeance measured using BPI – 102 “Standard for Air Resistance of Thermal Insulation Used in Retrofit Cavity Applications”;
 1. Cellulose: density of installed insulation must be 3.5 pounds/ cu ft.
 2. Fiberglass: density of installed insulation must be 2.5 pounds/cu ft or meet manufacturer’s specifications. Material must meet ASTM C522, E283, or E2178.
 - ii. The building does not display construction methods, techniques, and/or materials that are uniquely susceptible to damage that could be caused by the introduction of wall insulation (e.g., the siding does not appear to be able to withstand removal and replacement; the siding is masonry or stucco; there appear to be unique historic wall assemblies);

- iii. Portions of the siding are carefully removed before blowing dense pack cellulose into the walls, and then replaced;
 - iv. The exterior wall surface is free from areas where water can leak into the wall cavity (caulking around window openings and other wall penetrations has occurred or is part of the project);
 - v. There are no untreated wood members in direct contact with the ground, and the distance from the ground to the sill plate is more than 6 inches to keep water from wicking up into the wall cavity;
 - vi. The potential for splash back from rain dripping from roofs is minimized with functioning gutters and/or other water diversion features;
 - vii. There are overhanging eaves, and/or other protection is in place to protect the wall surface from the elements (rain and wind);
 - viii. Post diagnostic testing (blower door tests) results must meet the ASHRAE 62.2-2016 Standard;
 - ix. Number of occupants and use is considered in evaluating expected interior moisture levels; and
 - x. Exhaust Fans are installed according to ASHRAE 62.2-2016 Standard.
- d. Removable film on windows (if the film is transparent), solar screens, or window louvers, in a manner that does not harm or obscure historic windows or trim.
 - e. Reflective roof coating in a manner that matches the historic materials and form, or with materials that restore the original feature based on historic evidence, and in a manner that does not alter the roofline, or where not on a primary roof elevation or visible from the public right-of-way.
 - f. Storm windows or doors, and wood screen doors in a manner that does not harm or obscure historic windows or trim.
 - g. In-kind replacement or repair of primary windows, doors and door frames. In-kind is defined as an exact replacement of existing material type, design, dimensions, texture, detailing, finish and exterior appearances.
 - h. Repair of minor roof and wall leaks prior to insulating attics or walls, provided repairs closely resemble existing surface composite.
 - i. Weatherization of mobile homes and trailers.

3. Interior Work:

Special Note: Undertakings to interior spaces where the work will not be visible from the public right of way; no structural alterations are made; no demolition of walls, ceilings or floors occurs; no drop ceilings are added; no character defining interior features will be impacted, or no walls are leveled with furring or moved, will be automatically excluded from ORSHPO review. This work includes:

- a. Energy efficiency work within the building shell:
 - i. Thermal insulation in walls, floors, ceilings, attics, crawl spaces, ducts and foundations;
 - ii. Blown in wall insulation installed from the interior where no decorative plaster or character defining features are damaged;
 - iii. Plumbing work, including installation of water heaters;
 - iv. Electrical work, including improving lamp efficiency;
 - v. Sealing air leaks using weather stripping, door sweeps, and caulk and sealing major air leaks associated with bypasses, ducts, air conditioning units, etc.;
 - vi. Repair or replace water heaters;
 - vii. Adding adjustable speed drives such as fans on air handling units, cooling tower fans, and pumps;
 - viii. Install insulation on water heater tanks and water heating pipes;
 - ix. Install solar water heating systems, provided the structure is not visible from the public right of way;

- x. Install waste heat recovery devices, including desuperheater water heaters, condensing heat exchangers, heat pump and water heating heat recovery systems, and other energy recovery equipment;
- xi. Repair or replace electric motors and motor controls like variable speed drives;
- xii. Incorporate other lighting technologies such as dimmable ballasts, day lighting controls, and occupant-controlled dimming.

b. Work on heating and cooling systems:

- i. Clean, tune, repair or replace heating systems, including furnaces, boilers, heat pumps, vented space heaters, and wood stoves;
- ii. Clean, tune repair or replace cooling systems, including central air conditioners, window air conditioners, heat pumps, and evaporative coolers;
- iii. Install insulation on ducts and heating pipes;
- iv. Conduct other efficiency improvements on heating and cooling systems, including replacing standing pilot lights with electronic ignition devices and installing vent dampers;
- v. Modify duct and pipe systems so heating and cooling systems operate efficiently and effectively, including adding return ducts, replace diffusers and registers, replace air filters, install thermostatic radiator controls on steam and hot water heating systems;
- vi. Install programmable thermostats, outdoor reset controls, UL listed energy management systems or building automation systems and other HVAC control systems.

c. Energy efficiency work affecting the electric base load of the property:

- i. Convert incandescent lighting to fluorescent;
- ii. Add reflectors, LED exit signs, efficient HID fixtures, and occupancy (motion) sensors;
- iii. Replace refrigerators and other appliances.

d. Health and safety measures

- i. Installing fire, smoke or carbon dioxide detectors / alarms;
- ii. Repair or replace vent systems on fossil-fuel-fired heating systems and water heaters to ensure that combustion gasses draft safely to outside;
- iii. Install mechanical ventilation, in a manner not visible from the public right of way, to ensure adequate indoor air quality if house is air-sealed to building tightness limit.

C. OHCS/SUBGRANTEE/SUBRECIPIENT RESPONSIBILITIES

1. Subgrantee will, and will cause and require by contract that its Subrecipients, retain access to pre- and post-documentation of the weatherization work completed, including the scopes of work and photographs as part of its permanent project records.
2. OHCS will monitor every Subgrantee, and Subgrantee will monitor each of its Subrecipients, for compliance with the Programmatic Agreement according to established guidelines and Subgrantee hereby agrees, and will require that each of its Subrecipients agree:
 - a. to cooperate with such monitoring; and
 - b. to satisfy all applicable Section 106 requirements, including but not limited to the Secretary of Interior's Standards for Rehabilitation.

D. ORSHPO/ACHP RESPONSIBILITIES

1. ORSHPO is permitted thirty (30) calendar days after the receipt of any submitted documentation to review and comment on such material. If ORSHPO does not provide comments within this time period, it may be assumed that ORSHPO accepts the documentation to meet the reporting requirements of this agreement.
2. The ACHP shall be responsible for providing technical guidance, participating in dispute resolutions if appropriate, and monitoring the effectiveness of this Programmatic Agreement.

E. DISCOVERIES AND UNFORESEEN EFFECTS

If, during the implementation of these programs, a previously unidentified property that may be eligible for inclusion in the National Register is encountered, or is affected in an unanticipated manner, the Subgrantee responsible for the weatherization will assume its responsibilities pursuant to 36 CFR 800.13. Subgrantee will require that any of its Subrecipients responsible for the weatherization will assume its responsibilities pursuant to 36 CFR 800.13.

F. REPORTING

Subgrantee will and will cause and require by contract that its Subrecipients, report all projects that fall under this Programmatic Agreement in the OPUS database upon completion.

G. MONITORING

USDOE, ACHP, and ORSHPO may monitor any undertakings carried out pursuant to this Programmatic Agreement. The ACHP may review undertakings, if requested by USDOE. USDOE shall be entitled to address and make determinations on overall policy or administrative issues related to the implementation of these Programs.

H. DISPUTE RESOLUTION

1. Should ORSHPO object within the time frames outlined in this Programmatic Agreement to any project undertakings, the Subgrantee shall consult further with ORSHPO to attempt to remove the basis for the ORSHPO's objection. In the event that ORSHPO's objection is not withdrawn, then OHCS shall refer the matter to USDOE. OHCS shall forward all documentation relevant to USDOE, who will notify and consult with ACHP.
2. ACHP will provide its recommendations, if any, within 21 days following receipt of relevant documentation. USDOE will take into account the ACHP's recommendations or formal comments in reaching a final decision regarding the dispute.

I. TERMINATION

USDOE, ORSHPO, or OHCS may terminate the Programmatic Agreement, provided that the party proposing termination notifies the other signatories and the ACHP in writing explaining the reasons for termination and affording the other signatories at least thirty (30) days to consult and seek alternatives to termination.

J. FAILURE TO COMPLY WITH TERMS OF AGREEMENT

In the event that the terms of the Programmatic Agreement cannot be carried out by the Subgrantee, no action will be taken or sanction of any action or any irreversible commitment by the Subgrantee that would result in an adverse effect to historic properties or would foreclose the ACHP's consideration of modifications or alternatives to the undertaking.

K. LIABILITY LIMITATIONS

In the event that the terms of the Programmatic Agreement are not carried out by the Subgrantee as indicated in Exhibit E , the Subgrantee hereby assumes all responsibility for the weatherization projects as indicated in the Programmatic Agreement or this Agreement.

L. THIRD PARTY BENEFICIARY

ORSHPO is expressly made a third-party beneficiary to the Subgrantee's obligations set forth in this Exhibit E and shall be entitled to enforce the terms thereof.

2021-2023 MASTER GRANT AGREEMENT
Exhibit F, Program Element, General Terms and Conditions

Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:

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

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

2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Program Element 01
Community Services Block Grant Program (CSBG)

1. **Description.** The Community Services Block Grant (CSBG) Program is an anti-poverty block grant program federally funded by the U.S. Department of Health and Human Services (DHHS), Administration for Children and Families (ACF), Office of Community Services (OCS), that provides funds for distribution principally to Oregon's local community action agencies to create programs and services that reduce the causes of poverty, revitalize low-income communities, and empower low-income families and individuals to become self-sufficient.
2. **Scope of Work.**
 - A. Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS and supplemented herein, together with applicable program requirements including CFDA 93.569, Public Law 105-285, OAR 813-210, OAR 813-230, and 45 CFR 96. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
 - B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer CSBG funds in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:
 - 1) Use grant funds allocated specifically by OHCS for allowable administrative and overhead costs in order to provide the services outlined in this agreement. Subgrantee shall adhere to the DHHS CSBG administrative efficiency measure of a maximum of 17% or a reasonable measure as approved by OHCS. Allowable administrative costs are defined as costs related to the general management of the grantee organization. Allowable program costs are defined as costs that can be specifically identified with program activities including but not limited to, management, service delivery and data collection, undertaken by subgrantee or subrecipients to achieve an outcome intended by the funding program.
 - 2) Assure that funds allocated through CSBG shall be used to support activities that are designed to assist low-income families and individuals, including families and individuals receiving assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.), homeless families and individuals, migrant or seasonal farm workers, and elderly low-income individuals and families.
 - 3) Use program funds to implement different strategic approaches designed to reduce or eliminate one or more conditions that block the achievement of economic self-sufficiency for low-income households. Such strategies must have measurable and potentially major impact on the causes of poverty in communities in the service area where poverty is a particularly acute problem. Allowable services and activities may include, but are not limited to helping members of low-income households:
 - a. Secure and retain meaningful employment;
 - b. Attain an adequate education;
 - c. Make better use of available income;
 - d. Obtain and maintain adequate housing and a suitable living environment;
 - e. Obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment-related assistance;
 - f. Remove obstacles and solve problems that block the achievement of self-sufficiency;

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- g. Achieve greater participation in the affairs of the community; and
 - h. Make effective use of other programs related to the purpose of this OAR chapter 813, division 210.
- 4) Use program funds for a variety of services and activities intended to reduce or eliminate poverty conditions in communities in the service area, including but not limited to:
 - a. Providing on an emergency basis for the provision of such supplies and services, nutritious foodstuffs, and related services as may be necessary to counteract conditions of starvation and malnutrition among the poor;
 - b. Coordinating and establishing linkages between government and other social service programs to assure the effective delivery of such services to low-income households; and
 - c. Encouraging the participation of private sector entities in community efforts to ameliorate poverty in the service area.
 - 5) Assure that households receiving CSBG program benefits do not have annual incomes which exceed 200% of the federal poverty guidelines or the maximum as assigned by DHHS, ACF, OCS. Income verification includes, but is not limited to: wages (pay stubs), assistance payments such as alimony, SSI, TANF, child support, veteran's benefits, unemployment benefits, worker's compensation, retirement/pension and social security benefits.
 - 6) Assure that all necessary documentation is included in household files, all in form and substance satisfactory to OHCS. Required documents for each applicant household are as follows:
 - a. Application/intake form that includes client characteristic data;
 - b. Intake form has language stating all information contained on form is true and correct to the best of my knowledge and is signed by applicant and staff member;
 - c. Verification that household income does not exceed 200% of the FPL or the maximum as assigned by DHHS, ACF OCS to cover the 200% FPL which is a temporary change and will revert back to 125% after September 30, 2021.
 - d. Documentation of income or self-declaration for clients with zero income;
 - e. Evidence that client was apprised of grievance procedures;
 - f. Authorization of Release of Information, signed and dated by client and staff member;
 - g. Confidentiality statement, signed and dated by client and staff member;
 - h. If applicable, evidence that the client was informed of their potential eligibility for child support services and informed of the locations of local resources;
 - i. Entrance, exit date, reason for exiting the program, housing status at exit; and
 - j. Such other documentation as OHCS may from time to time require.
 - 7) Administer the Community Services Block Grant program through a tripartite board composed of 1/3 public officials, no fewer than 1/3 are representative of low-income individuals and families and 1/3 are officials or members of business, industry labor, religious, law enforcement, education or other major groups and interests in the community served.
 - 8) Retain and keep accessible all program records for a minimum of five (5) years, or such longer period as may be required by applicable law and state records retention requirements, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

3. Program Specific Reporting.

- A. Subgrantee shall and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary.
- B. Subgrantee agencies shall provide the department with quarterly reports covering items set forth in OAR 813-210-0025(2) and (3), which shall be in a format prescribed by the department. Such quarterly reports shall be coded in such a way as to allow the linking and analysis of expenditures for each separate service funded by the program.
- C. Reports submitted shall include:
 - 1) Quarterly report, by date determined by OHCS.
 - 2) Annual submission of the CSBG Annual Report, by date determined by OHCS Annual Organizational Standards Assessment, by date determined by OHCS.
 - 3) Additional reports as needed or requested by OHCS.

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2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Program Element 02
Emergency Solutions Grant Program (ESG)

1. Description. The Emergency Solutions Grant (ESG) program supports local programs in assisting individuals and families to quickly regain stability in permanent housing after experiencing a housing crisis or homelessness. ESG is federally funded by the U.S. Department of Housing and Urban Development (HUD) and may be used for five program service components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, and HMIS pursuant to 24 CFR Part 5, subpart F, Part 91 and Part 576, CFDA 14.231, 42 U.S.C. 11371-11378, OAR 813.145 as amended and ORS 458.505 to 458.545.

2. Scope of Work.

A) Subgrantee shall, and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS, and supplemented herein, together with applicable program requirements including HEARTH Act, 24 CFR Part 576, CFDA 14.231, 42 U.S.C. 11371-11378, OAR 813.145 as amended and ORS 458.505 to 458.545. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.

B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:

- 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.
- 2) Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care developed coordinated entry requirements and department program requirements.
- 3) Comply with department minimum written standards for providing program services and established Continuum of Care standards as identified in 24 CFR 576.400(e).
- 4) Re-evaluate program participant eligibility and need for program services for homelessness prevention and rapid re-housing in compliance with program requirements.
- 5) May utilize program funds to address the specific needs of various homeless subpopulations. Specific targeting of funds shall be outlined and approved by OHCS in the subgrantee's funding application.
- 6) Comply with Conflict of Interest standards for both individuals and organizations as identified in 24 CFR 576.404(a), 24 CFR 85.36, and 24 CFR 84.42.

3. Program Specific Reporting.

A) Subgrantee shall and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary.

B) Reports submitted shall include:

- 1) Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (Oct 20, Jan 20, Apr 20, Jul 20).
- 2) Subgrantee shall provide additional reports as needed or requested by OHCS.

4. Match Requirements.

- A) Subgrantee shall make matching contributions, in compliance with 24 CFR 576.201 to supplement the program in an amount that equals the subgrantee's total fund allocation. Subgrantee may obtain matching cash and noncash contributions from any source that meets program requirements except for the expenditure limits identified in 24 CFR 576.100. Program requirements for matching include, but are not exclusive to:
- 1) Subgrantee shall not use federal funds if those funds:
 - (a) are prohibited from being used to match program funds; or
 - (b) are being used to match another federal grant or award.
 - 2) Subgrantee program match shall be provided and expended within the subgrantee's program grant award period.
 - 3) Subgrantee contributions used to match a previous program grant shall not be used to match a subsequent program grant.
 - 4) Subgrantee shall calculate the amount of cash and noncash contributions in compliance with 24 CFR 576.201.
- B) Subgrantee shall report matching contributions on the Quarterly Provider Report.
- C) Subgrantee may request from OHCS a waiver to the match requirement when circumstances limit capacity to provide the program required 100% match.

5. Performance Measures.

- A) Subgrantee shall and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goals.
- 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at the time of their exit from the program or project funded by the program. Preliminary statewide target is 30%.
 - 2) Increased housing stability as measured by the percentage of program participants who reside in permanent housing (those counted in the above performance goal one) and maintain permanent housing for six months from time of program or project exit. Statewide target is 80%.
 - 3) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved funding application.

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2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Program Element PE 03
Emergency Housing Assistance (EHA)

1. **Description.** Emergency Housing Assistance (EHA) provides state funds to supplement existing local programs and/or establish new programs designed to prevent and reduce homelessness. EHA funds are available for ten program service components: street outreach, emergency shelter; transitional housing; rapid re-housing; homelessness prevention; supportive in-home services; data collection; community capacity building; acquisition, rehabilitation or conversion of a shelter or transitional housing units.

2. **Scope of Work.**
 - A) Subgrantee shall, and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS and supplemented herein, together with applicable program requirements including OAR 813.046 as amended, and ORS 458.600 to 458.650. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.

 - B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with the all program requirements, including but not limited to the following terms and conditions:
 - 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.

 - 2) A department determined portion of program funds shall be allocated to exclusively serve eligible veterans, as defined by program requirements.

 - 3) Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care developed coordinated entry requirements and department program requirements.

 - 4) Assure that program services are available to extremely low income and very low income households, including but not limited to, veterans, persons more than 65 years of age, disabled persons, farm workers and Native Americans, who meet program eligibility requirements.

 - 5) Re-evaluate program participant eligibility and need for homelessness prevention and rapid re-housing services in compliance with program requirements.

 - 6) May utilize program funds to address the specific needs of various homeless subpopulations. Specific targeting of funds shall not violate any Fair Housing Act or anti-discriminatory requirements and shall be outlined and approved by OHCS in the subgrantee's funding application prior to implementation. Targeting and serving homeless and at risk of homelessness veterans is required for the use of program funds that have been legislatively dedicated to serving veterans.

3. **Program Specific Reporting.**
 - A) .Subgrantee shall, and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary. EHA funds dedicated to veterans must be entered and reported separately from other EHA funded client data.

B) Reports submitted shall include:

- 1) Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (Oct 20, Jan 20, Apr 20, Jul 20).
- 2) Subgrantee shall provide additional reports as needed or requested by OHCS.

4. Performance Measures.

A) Subgrantee shall, and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goals:

- 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at time of their exit from the program or project funded by the program.
- 2) Increased housing stability as measured by the percentage of program participants who reside in permanent housing (those counted in the above performance goal one) and maintain permanent housing for six months from the time of program or project exit.
- 3) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved funding application.

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2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Program Element 04
State Homeless Assistance Program (SHAP)

1) Description. The State Homeless Assistance Program (SHAP) provides state funds to help meet the emergency needs of homeless Oregonians by providing operational support for emergency shelters and the supportive services directly related to them. SHAP funds are available for six program service components: street outreach; emergency shelter operations, shelter resident support services; acquisition, rehabilitation or conversion of a shelter facility; and data collection.

2) Scope of Work.

A) Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS and supplemented herein, together with applicable program requirements including OAR 813.240 as amended and ORS 458.505 to 458.545. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.

B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with the all program requirements, including but not limited to the following terms and conditions:

- 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.
- 2) Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care developed coordinated entry requirements and department program requirements.
- 3) May utilize program funds to address the specific needs of various homeless subpopulations. Specific targeting of funds shall be outlined and approved by OHCS in the subgrantee's funding application.

3) Program Specific Reporting.

A) Subgrantee shall, and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary.

B) Reports submitted shall include:

- 1) Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (Oct 20, Jan 20, Apr 20, Jul 20).
- 2) Subgrantee shall provide additional reports as needed or requested by OHCS.

4) Performance Measures.

A) Subgrantee shall, and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goals:

- 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at time of exit from the program or project funded by the program.
- 2) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved funding application.

2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Program Element PE 05
Housing Stabilization Program (HSP)

1. Description. The Housing Stabilization Program (HSP) provides temporary financial assistance and support services to stabilize housing for low-income eligible families who are homeless or unstably housed and receiving Temporary Assistance for Needy Families (TANF) or who are TANF-eligible. HSP funds are available for four program service components: housing related costs, auxiliary services, case management and data collection pursuant to CFDA 93.558, 45 CFR 260, 263 and 264.50, 42 U.S.C. 7, OAR 813.051 as amended, and ORS 124.060-065, 411.320, 419B.010-015, 430.735-765, 458.505 to 458.545.

2. Scope of Work.

A) Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS and supplemented herein, together with applicable program requirements including CFDA 93.558, 45 CFR 260, 263 and 264.50, OAR 813.051 as amended and ORS 124.060-065, 458.505 to 458.545. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.

B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:

- 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.
- 2) Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care developed coordinated entry requirements and department program requirements. Subgrantee is strongly encouraged to also align its evaluation process with its local DHS branch assessment process.
- 3) Assure that all household income is counted to determine eligibility for program services. Countable income must be equal to or below the program income limit (at or below 250% of the Federal Poverty Guidelines) in the month of application.
- 4) May utilize program funds to address specific needs of various homeless subpopulations. Specific targeting of funds shall be outlined and approved by OHCS in the subgrantee agency's funding application.
- 5) Assure that each program participant's housing or service plan is jointly developed and developed and coordinated with DHS and program participant.
- 6) Coordination with local DHS branch offices is required to increase partnerships and collaboration, including a referral process with referral tracking and may include sharing of assessment and case plan documents to avoid unnecessary duplication of effort. Collaboration shall be outlined and approved by OHCS in the subgrantee agency's funding application.
- 7) Ensure priority of program services is first given to households receiving TANF.

3. Program Specific Reporting.

A) Subgrantee shall and shall cause and shall require its subrecipients by contract to submit for OHCS approval all reports as required in this agreement. No reporting deadline extension shall be given by OHCS for reports related to HSP.

B) Reports submitted shall include:

- 1) Referral Tracking and Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (Oct 20, Jan 20, Apr 20, Jul 20), to include ensuring that request for funds have been submitted for all fiscal year expenses by Jul 30 of each fiscal year.
- 2) Subgrantee shall provide additional reports as needed or requested by OHCS.

4. Maintenance of Effort Requirements.

- A) Subgrantee shall make maintenance of effort contributions in compliance with 45 CFR 92.24, 92.3, 263.2 through 263.6 to supplement the program in an amount that equals subgrantee's total fund allocation, unless otherwise directed by OHCS, and in compliance with the following requirements:
- 1) May obtain maintenance of effort cash contributions not otherwise counted towards a federal cost-sharing or matching requirement from any nonfederal source including state, local and private. State funds exclude funds expended under the Medicaid program, and funds from a prior fiscal year. Contributions must not have been used for any maintenance of effort for a previous program grant.
 - 2) May obtain maintenance of effort value of third-party, in-kind contributions if the expenditure is verifiable and meets applicable requirements in 45 CFR 92.3, 92.24 and 263; AND is not otherwise counted towards a federal cost-sharing or matching requirement. OHCS must approve the methodology used for in-kind valuation prior to including the value on the quarterly report. OHCS approval shall include verifying with DHS that the valuation meets federal TANF maintenance of effort requirements.
 - 3) Required maintenance of effort must be provided and expended within the subgrantee's program grant award year.
 - 4) Maintenance of effort contributions shall meet MOE requirements as defined in the program manual and must be provided to households that meet program eligibility requirements. MOE services must meet one or more of the following TANF purposes:
 - (a) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
 - (b) End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
 - (c) Preventing out-of-wedlock pregnancies; or
 - (d) Encourage the formation and maintenance of two-parent families.
 - 5) Subgrantee shall report maintenance of effort contributions on the Referral Tracking and Quarterly Provider Report.

5. Performance Measures.

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

2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Program Element 06
HOME Tenant Based Rental Assistance Program (HTBA)

1. **Description.** The HOME Tenant Based Assistance (HOME TBA or HTBA) program provides financial assistance to very low-income households to enable them to rent market-rate housing units. The HTBA is federally funded by the U.S. Department of Housing and Urban Development (HUD) and provides rental subsidies, known as "tenant-based rental assistance", to tenants to pay a portion of their housing costs including, rent, utilities and refundable security deposit.
2. **Scope of Work.**
 - A) Subgrantee shall and shall cause and require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS and supplemented herein, together with applicable program requirements including CFDA 14.239, 42 USC 12701 et. seq., 24 CFR 92, ORS 456.620, ORS 458.505 and OAR 813.120. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
 - B) Subgrantee shall, and shall cause and require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:
 - 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide services outlined in this agreement.
 - 2) Develop a written tenant selection plan in compliance with program requirements as satisfactory to and approved by the department.
 - 3) Affirmatively market the program to the broadest possible range of potential applicant households including but not limited to those who may have barriers to applying due to language, geography or disability.
 - 4) Require all program participants, as appropriate, to participate in programs or activities that shall increase household self-sufficiency. NOTE: a program participant's refusal to continue with an established self-sufficiency plan cannot be grounds for termination of program participation.
3. **Program Specific Reporting.**
 - A) Subgrantee shall and shall cause and shall require its subrecipients by contract to submit for OHCS approval all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary.
 - B) Reports submitted shall include:
 - 1) Reports as required in the program manual.
 - 2) Additional reports as needed or requested by OHCS.
4. **Match Requirement.**
 - A) Program matching funds may be required at the discretion of OHCS.
 - B) Subgrantee shall report match as directed by OHCS.

5. Performance Measures.

- A) Subgrantee shall, and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goal:
- 1) Increased housing stability as measured by the percentage of households served who maintained permanent housing for at least six months after exiting the program.
 - 2) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved funding application.

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2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Program Element PE 07
Elderly Rental Assistance (ERA)

1. **Description.** Elderly Rental Assistance (ERA) provides state funds to defray the cost of rental housing for very low-income households that are homeless or at risk of homelessness and unstably housed and where at least one household member is 58 years or older. ERA funds are available for six program service components: transitional housing; rapid re-housing; homelessness prevention; supportive in-home services; case management and data collection.
2. **Scope of Work.**
 - A) Subgrantee shall, and shall cause and shall require by contract, that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its funding application as approved by OHCS and supplemented herein, together with applicable program requirements including OAR 813-053, as amended, and ORS 458.375; 458.377; and 458.600 to 458.650. The approved funding application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
 - B) Subgrantee shall, and shall cause and shall require its subrecipients by contract, to administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:
 - 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.
 - 2) Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care developed coordinated entry requirements and OHCS program requirements.
 - 3) Re-evaluate program participant eligibility and need for program services in compliance with program requirements.
 - 4) May utilize program funds to address the specific needs of various elderly subpopulations. Specific targeting of funds shall not violate any Fair Housing Act or anti-discriminatory requirements and shall be outlined and approved by OHCS in the subgrantee's funding application prior to implementation.
3. **Program Specific Reporting.**
 - A) Subgrantee shall and shall cause and shall require its subrecipients by contract to submit for OHCS approval all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary.
 - B) Reports submitted shall include:
 - 1) Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (Oct 20, Jan 20, Apr 20, Jul 20).
 - 2) Additional reports as needed or requested by OHCS.
4. **Performance Measures.**
 - A) Subgrantee shall, and shall cause and shall require its subrecipients by contract, to administer the program in a manner consistent with program requirements designed to achieve the following performance goal:
 - 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at time of their exit from the program or project funded by the program.

- 2) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved funding application.

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2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Program Element 08
Low Income Home Energy Assistance Program (LIHEAP)

- 1. Description.** The Low-Income Home Energy Assistance Program (LIHEAP) is intended to assist low-income households, particularly those with the lowest incomes who pay a high proportion of household income for home energy, primarily to meet their immediate home energy needs. LIHEAP is federally funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services. Services covered by LIHEAP include bill payment assistance, energy education, case management, weatherization, and other energy-related repairs.
- 2. Scope of Work.**
 - A. Subgrantee shall, and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its local work plan application as approved by OHCS and supplemented herein, together with applicable legal requirements including CFDA 93.568, 2 U.S.C. 8621, ORS 458.505, 45 CFR 96, and OAR 813-200. The approved work plan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this subsection 2A or otherwise under this agreement.
 - B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer LIHEAP funds in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:
 - 1) Provide heating and, at subgrantee's discretion, cooling assistance with LIHEAP funds anytime between October 1st and September 30th as funding allows.
 - 2) At minimum, provide crisis assistance from December 1st through March 15th. If direct service funds are exhausted before March 15th, subgrantee and subrecipients must be available to assist households in crisis by providing information, referral, advocacy, and/or case management services. Subgrantee may choose to offer crisis assistance on a year-round basis.
 - 3) May request approval from OHCS program coordinator to extend timelines for any assistance component based on funding and operational circumstances.
 - 4) Assure that outreach is performed in a manner which ensures all eligible households are made aware of available LIHEAP assistance. This includes but is not limited to placing posters in local and county social service offices, publishing articles in local newspapers, broadcast media announcements, and vendor billing inserts and/or mailings. Subgrantee may also execute interagency agreements with other low-income program offices to perform outreach tasks.
 - a. Households residing in any OHCS multifamily housing portfolio property are considered to be year-round priorities for outreach. These properties have been supported with public funds and the preservation and stabilization of this housing is a priority for the State of Oregon. A current list is available on the OHCS website in both an Excel version or as a PDF.
 - b. OHCS is committed to "Meaningfully engage culturally specific and culturally responsive organizations and their constituents to ensure OHCS policies, practices, systems of accountability and

program awards are designed to advance equity and racial justice and meet the needs of communities of color.”

- 5) Assure applications for the LIHEAP program (every component, including crisis) shall be accepted at sites that are geographically accessible to all households across their service area.
- 6) Ensure that individuals who are “homebound” (physically infirm) shall be provided alternative application methods, including, but not limited to phone, mail and/or home visits.
- 7) May choose to prioritize vulnerable populations (including elderly, disabled and families with young children) for a brief phase at the start of the heating or cooling season. Priority intake periods are intended to allow for additional time and outreach necessary to provide quality services to vulnerable populations, and shall not exclude non-targeted households for more than a short period of time.
- 8) May request approval to target specific services to allowable populations based on community need. Clear policies for application, eligibility and outreach practices must be outlined in the local work plan application and approved by OHCS. Examples of targeted populations include, but are not limited to:
 - a) Households that have not accessed other available energy assistance for the current program year (e.g. fuel funds, utility programs).
 - b) Vulnerable populations as defined by the LIHEAP statute, including seniors, disabled, and families with young children.
 - c) Households who opt to participate in pilot programs including long term case management, energy education, and/or arrearage management programs.
- 9) Subgrantees with Tribal LIHEAP Grantees (tribes who receive LIHEAP funds directly from HHS) in their service area shall make every effort to assure that tribal households do not receive duplicate payments or services. If for any reason an eligible tribal member is unable to access their tribal LIHEAP program (e.g., out of funds, geographically inaccessible, unanticipated hardship) they should be served as any other eligible household. Households affiliated with tribes not receiving LIHEAP funds from HHS should be treated as any other applicant. Any deviation from these policies must be approved by OHCS.
- 10) Assure that households receiving LIHEAP benefits are determined to be eligible based on guidelines provided annually by OHCS.
- 11) Use the benefit matrix and payment guidelines as outlined in the Energy Assistance Operations Manual to determine LIHEAP benefit levels. Any variation from statewide payment levels or types must be approved by OHCS.
- 12) Assure that life- threatening crisis situations are addressed within either 18 hours (if already disconnected) or 48 hours (at risk of disconnection) of application. These timeframes must be documented to ensure compliance with federal requirements and must include comments outlining how the situation was addressed.
- 13) Provide any of the following forms of assistance, or a combination thereof, to resolve energy related emergencies:
 - a) Bill payment assistance
 - b) Heating or cooling system repair or replacement- includes repair, replacement, or conversion of inoperative, non-functional, or unsafe household heating or cooling equipment necessary to alleviate

potential crisis. When considering heating or cooling repair or replacement, considerable effort should be made to supplement LIHEAP funds with other leveraged resources.

- c) Other equipment repair/replacement- includes repair or replacement of energy-related inoperative, non-functional, or unsafe household appliances/equipment necessary to alleviate home energy crisis. When considering equipment repair or replacement, considerable effort should be made to supplement LIHEAP funds with other leveraged resources.
 - d) Other emergency services- including, but not limited to, information, referral, coordination of benefits, advocacy, case management and/or other goods and services necessary to relieve immediate threat to health and safety.
- 14) Notify households regarding the amount of bill payment assistance to be provided. Applicants who apply by mail should receive a notice by mail or may be notified by telephone
 - 15) Assure that LIHEAP Assurance 16 funds are used to reduce household energy burden, improve utility payment patterns, promote energy conservation and improve household self-sufficiency. Subgrantee shall outline policies and procedures for awarding Assurance 16 funding in their local workplan application.
 - 16) Assure that participating home energy supplier sign and comply with vendor contracts and ensure that no home energy supplier is paid with LIHEAP funds without a signed contract. In cases where a home energy supplier is not under contract, households may be paid directly.
 - 17) Authenticate all home energy suppliers paid with LIHEAP funds. A process for authentication (e.g. verifiable tax ID, business documentation) must be outlined and approved in the local work plan application.
 - 18) Pay home energy suppliers within 45 days of committing a LIHEAP benefit, unless otherwise specified in the vendor contract.
 - 19) Assure that applicants understand and sign a vendor release of information in cases where household information must be obtained from a utility/vendor.
 - 20) Does not use LIHEAP funds to pay for any person influencing or attempting to influence an officer or employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant loan or cooperative agreement. If any funds other than LIHEAP have been paid or shall be paid to any employees for influencing or attempting to influence an officer or employee of a Member of Congress in connection with the awarding of the Federal LIHEAP contract, grant, loan or cooperative agreement, subgrantee shall, and shall cause and shall require its subrecipients by contract to complete and submit Standard- Form-LLL (“Disclosure Form to Report Lobbying”) in accordance with its instructions.

3. Program Specific Reporting

A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to comply with the following program specific reporting requirements:

- 1) Ensure that data collection and reporting for LIHEAP funded activities be conducted through the use of OHCS approved OPUS database and assure that data entry into OPUS occurs in an accurate and timely manner as satisfactory to OHCS, ideally at the time of intake.
- 2) Maintain record of leveraged resources as outlined in the LIHEAP State Plan. Subgrantees must use this documentation to complete and submit the LIHEAP Leverage report, satisfactory to OHCS, due annually by October 15th.

- 3) Submit all reports as required in this agreement and outlined in the Energy Assistance Operations Manual as satisfactory to OHCS.
- 4) Provide additional reports as needed or requested by OHCS.
- 5) May request a reporting deadline extension when necessary.

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2021--2023 MASTER GRANT AGREEMENT
Exhibit A, Attachment # Program Element 09
Low-Income Home Energy Assistance Program Weatherization Assistance Program (LIHEAP WX)

1. **Description.** The Department of Oregon Housing and Community Services (OHCS) has been designated by the Governor as the administrator of all federally funded low-income weatherization programs. The Low-Income Home Energy Assistance Program (LIHEAP) is federally funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services and provides a portion of annual funding for weatherization assistance purposes.
2. **Scope of Work.**
 - A. Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its local work plan application as approved by OHCS and supplemented herein, together with applicable legal requirements including CFDA 93.568, 42 U.S.C. § 8621-8630. The approved work plan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
 - B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer LIHEAP weatherization funds in compliance with the following terms and conditions:
 - 1) May use LIHEAP weatherization funds for allowable administrative costs in order to provide the services outlined in this agreement.
 - 2) Use Training and Technical Assistance (T&TA) funds for the purposes of Training and Technical Assistance as outlined in the LIHEAP and DOE State Plans. Subgrantee reserves the right to submit an OHCS budget change request to have funds moved for the purpose of providing weatherization assistance.
 - 3) Determine priority among program applicants by using at minimum the following criteria and such other criteria as satisfactory to OHCS:
 - a. Households with seniors as defined by those persons over the age of 60.
 - b. Households with disabled members.
 - c. Households with children eighteen years of age and under.
 - 4) Provide allowable weatherization assistance that may include, but is not necessarily limited to weatherization services, baseload services, and energy education.
 - 5) Address Health and Safety issues as required by the LIHEAP and DOE State Plans, including but not limited to:
 - a. Using LIHEAP WX prescribed methods of home analysis to determine existing health and safety needs.
 - b. Testing for the presence of carbon monoxide and combustion appliance zone depressurization testing of one hundred percent (100%) of the homes containing combustion appliances.
 - c. Installing Carbon Monoxide alarms in one hundred percent (100%) of homes.
 - d. Addressing Indoor air quality in all weatherized homes by performing pre- and post-blower door tests on 100% of homes weatherized and results used to determine the ASHRAE Standard 62.2 whole building ventilation rates for each home are met through the proper installation of vented exhaust fans with flow controllers in those homes. When providing energy education and/or Baseload services only, ASHRAE Standard 62.2 ventilation standards are optional when no moisture related air quality issues are noted.

- e. Assessment of existing mold and mildew conditions in 100% of homes weatherized with LIHEAP weatherization funds.
- 6) May use LIHEAP Weatherization Funds for the replacement of appliances as funding sources allow and dispose of appliances in accordance with US Environmental Protection Agency (EPA) guidelines.
 - 7) Provide energy education to qualified households through such means that may include, but are not limited to:
 - a. Referral to another department within the subgrantee or subrecipient agency.
 - b. Referral to another agency that provides energy education services.
 - c. As part of the weatherization program. This may include, but is not limited to in-home energy education, or energy education as part of a classroom setting.
 - 8) Maintain a deferral policy that is satisfactory to OHCS. Once a deferral is determined by the subgrantee or subrecipient, a “Letter of Service Denial” or “Delay Due to Site Conditions” shall be mailed to the applicant with the specific reason given. Deferral reasons may include, but are not limited to, the following:
 - a. Structurally unsound dwelling.
 - b. Evidence of substantial, persistent infestation of rodents, insects, or other harmful/objectionable animals, which are difficult to control.
 - c. Electrical or plumbing hazards which cannot be resolved prior to, or as a part of, weatherization assistance.
 - d. The presence of raw sewage around or in any part of the dwelling.
 - e. Environmental hazards such as serious moisture problems, friable asbestos, or other hazardous materials, which cannot be resolved prior to or as a part of the weatherization assistance.
 - f. The presence of a dead animal, or animal feces, in any area of the dwelling where program staff must install weatherization measures.
 - g. Excessive debris in and around the dwelling which limits the program staff access to the dwelling.
 - h. Maintenance and housekeeping practices which are negligent to the point of limiting access of program staff to the dwelling.
 - i. An apparent threat of violence of abuse to any program staff member, or any household member, during the weatherization process.
 - j. The presence and/or use of any controlled substance in the dwelling during the weatherization process.
 - k. Dwelling in which the costs of repairs substantially exceed the cost of the weatherization measures.
 - l. Major remodeling is in progress, limiting the proper completion of weatherization measures.
 - m. Substantial standing water in or around the crawl space or basement area limiting the proper completion of weatherization measures.
 - n. Uncooperative property owner or tenant who refuses a weatherization measure, refuses to make modifications necessary to permit a measure to be completed, or refuses to allow contractor staff access to dwelling.
 - o. Home is being advertised as being for sale.
 - 9) Require their weatherization contractors and weatherization programs have a certified lead safe renovator on staff.
 - 10) Require weatherization staff that provides energy audits and/or inspections in homes to attend health and

safety training.

- 1) Require at least one (1) staff members to be certified as a REM/Design operator. Carry an active contractor's license with Construction Contractors Board (CCB). Exceptions are Government Entities, Public Non-Profits, and Tribal Governments.
- 2) Carry an active contractor's license with Construction Contractors Board (CCB). Exceptions are Government Entities, Public Non-Profits, and Tribal Governments.
- 3) Participate in peer exchange annually if the agency is determined to be "at risk" through the OHCS monitoring process. Agencies participating in peer exchange must follow peer exchange protocols as directed in the LIHEAP and DOE State Plans.
- 4) Assure that LIHEAP funds are not used to pay for any person influencing or attempting to influence an officer or employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant loan or cooperative agreement. If any funds other than LIHEAP have been paid or shall be paid to any employees for influencing or attempting to influence an officer or employee of a Member of Congress in connection with the awarding of the Federal LIHEAP contract, grant, loan or cooperative agreement, subgrantee shall, and shall cause and shall require its subrecipients by contract to complete and submitting Standard- Form-LLL ("Disclosure Form to Report Lobbying") in accordance with its instructions.
- 5) Ensure every LIHEAP weatherization unit reported as a "completed unit" receives a final inspection aligning with and meeting the quality specifications outlined in the standard work specifications (SWS) aligned field guide.
- 6) Provide subrecipients and/or contractors with technical requirements for field work including audits/testing; installation of energy conservation, health and safety and incidental repair measures; and final inspections. The subgrantee must confirm receipt of those requirements and provide follow-up and clarification upon request. A signature on a contract can serve as proof of receipt. The technical requirements must be clearly communicated and the specifications for work to be inspected must be referenced in subrecipient contracts. Contractors hired by the subgrantee and subrecipient must have agreements that include the same technical requirements referenced above. The work of the contractor must be consistent with the quality specifications outlined in the SWS aligned field guide.

3. Program Specific Reporting

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to comply with the following program specific reporting requirements:
 - 1) Ensure that data collection and reporting for LIHEAP weatherization-funded activities be conducted through the use of OHCS approved OPUS database or other OHCS designated service data information system and assure that data entry into OPUS occurs in an accurate and timely manner.
 - 2) Submit all reports as required in this agreement including but not limited to the "Weatherization Quarterly Program Report" which is due quarterly by the 20th of January, April, July, and October to OHCS.
 - 3) Provide additional reports as needed and requested by OHCS.
 - 4) May request a reporting deadline extension when necessary.

4. Performance Measures

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to operate its low-income weatherization program in a manner designed to achieve the following performance goals:

- 1) Households served by the low-income weatherization program, utilizing funds from OHCS, should realize an average 12% savings in their annual energy bill due to weatherization improvements as predicted through proper use of an OHCS approved computerized auditing tool.
- 2) In homes where health and safety issues are identified 70% shall have the issues reduced or eliminated as grant funds allow.

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2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Program Element 10
Oregon Energy Assistance Program (OEAP)

1. **Description.** The Oregon Energy Assistance Program (OEAP) provides electric bill payment assistance to low-income households who have an account with Portland General Electric or Pacific Power utility vendors.
2. **Scope of Work.**
 - A. Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its local workplan application as approved by OHCS and supplemented herein, together with applicable legal requirements including ORS 757.612 and OAR 813-202. The approved workplan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
 - B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer OEAP funds in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:
 - 1) Assure that outreach is performed in a manner which ensures all eligible households are made aware of available OEAP assistance. This includes but is not limited to placing posters in local and county social service offices, publishing articles in local newspapers, broadcast media announcements, and vendor billing inserts and/or mailings. Subgrantees may also execute interagency agreements with other low-income program offices to perform outreach tasks.
 - a) Households residing in any OHCS multifamily housing portfolio property are considered to be year-round priorities for outreach. These properties have been supported with public funds and the preservation and stabilization of this housing is a priority for the State of Oregon. A current list is available on the OHCS website in both an Excel version or as a PDF.
 - b) OHCS is committed to “Meaningfully engage culturally specific and culturally responsive organizations and their constituents to ensure OHCS policies, practices, systems of accountability and program awards are designed to advance equity and racial justice and meet the needs of communities of color.”
 - 2) Assure applications for the OEAP program (every component, including crisis) shall be accepted at sites that are geographically accessible to all eligible households across their service area.
 - 3) Assure that individuals who are “homebound” (physically infirm) shall be provided alternative application methods, including, but not limited to phone, mail and/or home visits.
 - 4) May request approval to target specific services to allowable populations based on community need. Clear policies for client application, eligibility and outreach practices must be outlined in the local workplan application and approved by OHCS. Examples of targeted populations include, but are not limited to:
 - a) Households that have not accessed other available energy assistance for the current program year (e.g. fuel funds, utility programs).
 - b) Vulnerable Populations as defined by the LIHEAP program statute, including seniors, disabled, and families with young children.

- c) Households who opt to participate in pilot programs including long term case management, energy education, and/or arrearage management programs.
- 5) Use the statewide benefit matrix and payment guidelines as outlined in the Energy Assistance Operations Manual to determine OEAP benefit levels. Any variation from statewide payment levels or types must be approved by OHCS.
- 6) Assure that life- threatening crisis situations are addressed within either 18 hours (if already disconnected) or 48 hours (at risk of disconnection) of application. These timeframes must be documented and must include comments outlining how the situation was addressed.
- 7) Notify households regarding the amount of bill payment assistance to be provided. Applicants who apply by mail should receive a notice by mail or may be notified by telephone.
- 8) Assure that participating home energy suppliers sign and comply with vendor contracts and ensure that no home energy supplier is paid with OEAP funds without a signed contract.
- 9) Pay home energy suppliers within 45 days of committing an OEAP benefit, unless otherwise specified in the vendor contract.
- 10) Assure that applicants understand and sign a vendor release of information in cases where household information must be obtained from a utility/vendor.

3. Program Specific Reporting

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to comply with the following program specific reporting requirements:
 - 1) Ensure that data collection and reporting for OEAP funded activities be conducted through the use of OHCS approved OPUS or other OHCS designated service data information system and assure that data entry into OPUS occurs in an accurate and timely manner as satisfactory to OHCS, ideally at the time of intake.
 - 2) Submit all reports as required in this agreement and outlined in the Energy Assistance Operations Manual as satisfactory to OHCS.
 - 3) Provide additional reports as needed and requested by OHCS.
 - 4) May request a reporting deadline extension when necessary.

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2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Attachment # Program Element 11
Bonneville Power Administration (BPA) Weatherization Assistance Program

1. **Description.** The Oregon Housing and Community Services Department has been designated by the Governor as the administrator of all federally funded low-income weatherization programs. The Bonneville Power Administration (BPA) created a low-income weatherization program available to households (owners and renters) who heat with electricity from a public utility.

2. **Scope of Work.**

A. Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its work plan application as approved by OHCS and supplemented herein, together with applicable legal requirements including 42 U.S.C. 6851 – 6872 and 42 U.S.C. 7101. The approved work plan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.

B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer BPA funds in compliance with the following terms and conditions:

- 1) May use funds for allowable administrative costs in order to provide the services outlined in this agreement.
- 2) Use Training and Technical Assistance (T&TA) funds for the purposes of Training and Technical Assistance as outlined in the DOE State Plan. Subgrantee reserves the right to submit an OHCS budget change request to have funds moved for the purpose of providing weatherization assistance.
- 3) Determine priority among program applicants by using at minimum the following criteria and such other criteria as satisfactory to OHCS:
 - a. Households with seniors as defined by those persons over the age of 60.
 - b. Households with disabled members.
 - c. Households with children eighteen years of age and under.
 - d. High residential energy users.
 - e. Households with a high energy burden.

Local service providers may create a separate BPA waiting list rather than require the weatherization applicant in BPA service territory to remain on any other waiting list.

- 4) Provide allowable weatherization assistance that may include, but is not necessarily limited to weatherization services, baseload services, and energy education. Subgrantee and subrecipients may install 100% of cost-effective measures as determined through the use of an OHCS approved computerized auditing tool.
- 5) All weatherization services and baseload services, except for the purposes of Health and Safety, must have a saving to investment ratio (SIR) of 1.0 or greater as determined through the use of an OHCS- approved auditing tool.
- 6) Maintain a Health and Safety average not to exceed thirty percent (30%) of the total BPA job cost on

- average.
- 7) Address Health and Safety issues as required by the DOE State Plan, including but not limited to:
 - a. Using weatherization assistance program prescribed methods of home analysis to determine existing Health and Safety needs.
 - b. Testing for the presence of carbon monoxide and combustion appliance zone depressurization testing of one hundred percent (100%) of the homes containing combustion appliances.
 - c. Installing Carbon Monoxide alarms in one hundred percent (100%) of homes.
 - d. Addressing Indoor air quality in all weatherized homes by performing pre- and post-blower door tests on one hundred percent (100%) of homes weatherized and results used to determine the ASHRAE
 - e. 62.2 whole building ventilation rates for each home are met through the proper installation of vented exhaust fans with flow controllers in those homes. When providing energy education and/or Baseload services only, ASHRAE 62.2 ventilation standards are optional when no moisture related air quality issues are noted.
 - f. Assessment of existing mold and mildew conditions in one hundred percent (100%) of homes weatherized with BPA funds.
 - 8) Maintain a repair average not to exceed thirty percent (30%) of the total BPA job cost on average.
 - 9) May use weatherization funds for the replacement of inefficient appliances as funding sources allow and dispose of appliances in accordance with US Environmental Protection Agency (EPA) guidelines.
 - 10) Provide energy education to qualified households through such means that may include, but are not limited to:
 - a. Referral to another department within the subgrantee or subrecipient agency.
 - b. Referral to another agency that provides energy education services.
 - c. As part of the weatherization program. This may include, but is not limited to in-home energy education, or energy education as part of a classroom setting.
 - 11) Maintain a Deferral policy that is satisfactory to OHCS. Once a Deferral is determined by the subgrantee or subrecipient, a "Letter of Service Denial" or "Delay Due to Site Conditions" shall be mailed to the applicant with the specific reason given. Deferral reasons may include, but are not limited to, the following:
 - a. Structurally unsound dwelling.
 - b. Evidence of substantial, persistent infestation of rodents, insects, or other harmful/objectionable animals, which are difficult to control.
 - c. Electrical or plumbing hazards which cannot be resolved prior to, or as a part of, weatherization assistance.
 - d. The presence of raw sewage around or in any part of the dwelling.
 - e. Environmental hazards such as serious moisture problems, friable asbestos, or other hazardous materials, which cannot be resolved prior to or as a part of the weatherization assistance.
 - f. The presence of a dead animal, or animal feces, in any area of the dwelling where program staff must

- install weatherization measures.
- g. Excessive debris in and around the dwelling which limits the program staff access to the dwelling.
 - h. Maintenance and housekeeping practices which are negligent to the point of limiting access of program staff to the dwelling.
 - i. An apparent threat of violence of abuse to any program staff member, or any household member, during the weatherization process.
 - j. The presence and/or use of any controlled substance in the dwelling during the weatherization process.
 - k. Dwelling in which the costs of repairs substantially exceed the cost of the weatherization measures.
 - l. Major remodeling is in progress, limiting the proper completion of weatherization measures.
 - m. Substantial standing water in or around the crawl space or basement area limiting the proper completion of weatherization measures.
 - n. Proposed weatherization conservation measures shall result in minimal energy savings and the cost of these measures have a saving to investment ratio (SIR) of less than one (1).
 - o. Uncooperative property owner or tenant who refuses a weatherization measure, refuses to make modifications necessary to permit a measure to be completed, or refuses to allow contractor staff access to dwelling.
 - p. Home is being advertised as being for sale.
- 12) Require their weatherization contractors and weatherization programs have a certified lead safe renovator on staff.
 - 13) Require weatherization staff that provides energy audits and/or inspections in homes to attend health and safety training.
 - 14) Require at least one (1) staff members to be certified as a REM/Design operator.
 - 15) Carry an active contractor's license with Construction Contractors Board (CCB). Exceptions are Government Entities, Public Non-Profits, and Tribal Governments.
 - 16) Participate in peer exchange annually if the agency is determined to be "at risk" through the OHCS monitoring process. Agencies participating in peer exchange must follow peer exchange protocols as directed in the DOE State Plan.
 - 17) Ensure every BPA unit reported as a "completed unit" receives a final inspection aligning with the quality specifications outlined by OHCS ensuring that all work meets the minimum specifications outlined in the standard work specifications (SWS) aligned field guide in accordance with 10 CFR 440.
 - 18) Ensure every BPA unit reported as a "completed unit" has a form in the client file that certifies all of the work had a final inspection and that the work met the required standards. This form must be signed by a certified quality control inspector.
 - 19) Provide subrecipients and/or contractors with technical requirements for field work including audits/testing; installation of energy conservation, health and safety and incidental repair measures; and final inspections. The subgrantee must confirm receipt of those requirements and provide follow-up and clarification upon request. A signature on a contract can serve as proof of receipt. The technical requirements must be clearly communicated and the specifications for work to be inspected must be

referenced in subrecipient contracts. Contractors hired by the subgrantee and subrecipient must have agreements that include the same technical requirements referenced above. The work of the contractor must be consistent with the quality specifications outlined in the SWS aligned field guide.

3. Program Specific Reporting

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to comply with the following program specific reporting requirements:
- 1) Ensure that data collection and reporting for BPA funded activities be conducted through the use of OHCS approved OPUS or other OHCS designated service data information system and assure that data entry into OPUS occurs in an accurate and timely manner.
 - 2) Submit all reports as required in this agreement including but not limited to the “Weatherization Quarterly Program Report” which is due quarterly by the 20th of January, April, July, and October to OHCS.
 - 3) Provide additional reports as needed and requested by OHCS.
 - 4) May request a reporting deadline extension when necessary.

4. Performance Measures

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to operate its low-income weatherization program in a manner designed to achieve the following performance goals:
- 1) Households served by the low-income weatherization program, utilizing funds from OHCS, should realize an average 12% savings in their annual energy bill due to weatherization improvements as predicted through proper use of an OHCS approved computerized auditing tool.
 - 2) In homes where health and safety issues are identified 70% shall have the issues reduced or eliminated as grant funds allow.

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2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Attachment # Program Element 12
Department of Energy (DOE) Weatherization Assistance Program

1. **Description.** The Department of Oregon Housing and Community Services has been designated by the Governor as the administrator of all federally funded low-income weatherization programs. The U.S. Department of Energy (DOE) makes funds available to Oregon for the Weatherization Assistance Program (WAP).
2. **Scope of Work.**
 - A. Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its local work plan application as approved by OHCS and supplemented herein, together with applicable legal requirements including CFDA 81.042 – 42 U.S.C. 6851 – 6872 and 42 U.S.C. 7101. The approved work plan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
 - B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer DOE WAP funds in compliance with the following terms and conditions:
 - 1) May use funds for allowable administrative costs in order to provide the services outlined in this agreement.
 - 2) Use Training and Technical Assistance (T&TA) funds for the purposes of Training and Technical Assistance as outlined in the DOE State Plan. Subgrantee reserves the right to submit an OHCS budget change request to have funds moved for the purpose of providing weatherization assistance.
 - 3) Determine priority among program applicants by using at minimum the following criteria and such other criteria as satisfactory to OHCS:
 - a. Households with seniors as defined by those persons over the age of 60.
 - b. Households with disabled members.
 - c. Households with children eighteen years of age and under.
 - d. High residential energy users.
 - e. Households with a high energy burden.
 - 4) Provide allowable weatherization assistance that may include, but is not necessarily limited to weatherization services, baseload services, and energy education not to exceed the determined average designated by the current US DOE State Plan.
 - 5) All weatherization services and baseload services, except for the purposes of Health and Safety, must have a savings to investment ratio (SIR) of 1.0 or greater as determined through the use of an OHCS- approved auditing tool.
 - 6) Maintain a Health and Safety average not to exceed fifteen percent (15%) of the subgrantee total program allocation. Subgrantee shall, and shall cause and shall require its subrecipients by contract to address Health and Safety issues as required by the DOE State Plan, including but not limited to:
 - a. Using WAP prescribed methods of home analysis to determine existing Health and Safety needs.
 - b. Testing for the presence of carbon monoxide and combustion appliance zone depressurization testing of one hundred percent (100%) of the homes containing combustion appliances.

- c. Installing Carbon Monoxide alarms in one hundred percent (100%) of homes.
 - d. Addressing Indoor air quality in all weatherized homes by performing pre- and post-blower door tests on one-hundred percent (100%) of homes weatherized and results used to determine the ASHRAE whole building ventilation rates for each home are met through the proper installation of vented exhaust fans with flow controllers in those homes.
 - e. Assessment of existing mold and mildew conditions in one hundred percent (100%) of homes weatherized with DOE WAP funds.
- 7) May use weatherization funds for the replacement of inefficient appliances as funding sources allow and dispose of appliances in accordance with US Environmental Protection Agency (EPA) guidelines.
- 8) Provide energy education to qualified households through such means that may include, but are not limited to:
- a. Referral to another department within the subgrantee or subrecipient agency.
 - b. Referral to another agency that provides energy education services.
 - c. As part of the weatherization program. This may include, but is not limited to in-home energy education, or energy education as part of a classroom setting.
- 9) Maintain a Deferral policy that is satisfactory to OHCS. Once a Deferral is determined by the subgrantee or subrecipient, a "Letter of Service Denial" or "Delay Due to Site Conditions" shall be mailed to the applicant with the specific reason given. Deferral reasons may include, but are not limited to, the following:
- a. Structurally unsound dwelling.
 - b. Evidence of substantial, persistent infestation of rodents, insects, or other harmful/objectionable animals, which are difficult to control.
 - c. Electrical or plumbing hazards which cannot be resolved prior to, or as a part of, weatherization assistance.
 - d. The presence of raw sewage around or in any part of the dwelling.
 - e. Environmental hazards such as serious moisture problems, friable asbestos, or other hazardous materials, which cannot be resolved prior to or as a part of the weatherization assistance.
 - f. The presence of a dead animal, or animal feces, in any area of the dwelling where program staff must install weatherization measures.
 - g. Excessive debris in and around the dwelling which limits the program staff access to the dwelling.
 - h. Maintenance and housekeeping practices which are negligent to the point of limiting access of program staff to the dwelling.
 - i. An apparent threat of violence of abuse to any program staff member, or any household member, during the weatherization process.
 - j. The presence and/or use of any controlled substance in the dwelling during the weatherization process.
 - k. Dwelling in which the costs of repairs substantially exceed the cost of the weatherization measures.
 - l. Major remodeling is in progress, limiting the proper completion of weatherization measures.
 - m. Substantial standing water in or around the crawl space or basement area limiting the proper completion

of weatherization measures.

- n. Proposed weatherization conservation measures shall result in minimal energy savings and the cost of these measures have a savings to investment ratio (SIR) of less than one (1).
 - o. Uncooperative property owner or tenant who refuses a weatherization measure, refuses to make modifications necessary to permit a measure to be completed, or refuses to allow contractor staff access to dwelling.
 - p. Home is being advertised as being for sale.
- 10) Require their weatherization contractors and weatherization programs have a certified lead safe renovator on staff.
 - 11) Require weatherization staff that provides energy audits and/or inspections in homes to attend health and safety training.
 - 12) Require at least one (1) staff members to be certified as a REM/Design operator.
 - 13) Carry an active contractor's license with Construction Contractors Board (CCB). Exceptions are Government Entities, Public Non-Profits, and Tribal Governments.
 - 14) Assure that data collection and reporting for DOE WAP funded activities be conducted through the use of the OHCS OPUS database and assure that data entry into OPUS occurs in an accurate and timely manner as satisfactory to OHCS.
 - 15) Participate in peer exchange annually if the agency is determined to be "at risk" through the OHCS monitoring process. Agencies participating in peer exchange must follow peer exchange protocols as directed in the DOE State Plan.
 - 16) Ensure every DOE WAP unit reported as a "completed unit" receives a final inspection aligning with the quality specifications outlined by OHCS ensuring that all work meets the minimum specifications outlined in the standard work specifications (SWS) aligned field guide in accordance with 10 CFR 440.
 - 17) Ensure every DOE WAP unit reported as a "completed unit" has a form in the client file that certifies all of the work had a final inspection and that the work met the required standards. This form must be signed by a certified quality control inspector.
 - 18) Provide subrecipients and/or contractors with technical requirements for field work including audits/testing; installation of energy conservation, health and safety and incidental repair measures; and final inspections. The subgrantee must confirm receipt of those requirements and provide follow-up and clarification upon request. A signature on a contract can serve as proof of receipt. The technical requirements must be clearly communicated and the specifications for work to be inspected must be referenced in subrecipient contracts. Contractors hired by the subgrantee and subrecipient must have agreements that include the same technical requirements referenced above. The work of the contractor must meet the quality specifications outlined in the SWS aligned field guide.

3. Program Specific Reporting

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to comply with the following program specific reporting requirements:
 - 1) Ensure that data collection and reporting for DOE WAP funded activities be conducted through the use of OHCS approved OPUS or other OHCS designated service data information system and assure that data entry into OPUS occurs in an accurate and timely manner.
 - 2) Submit all reports as required in this agreement including but not limited to the "Weatherization Quarterly

Program Report” which is due quarterly by the 20th of January, April, July, and October to OHCS.

- 3) Provide additional reports as needed and requested by OHCS.
- 4) Request a reporting deadline extension when necessary.

4. Performance Measures

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to operate its low-income weatherization program in a manner designed to achieve the following performance goals:
 - 1) Households served by the low-income weatherization program, utilizing funds from OHCS, should realize an average 12% savings in their annual energy bill due to weatherization improvements as predicted through proper use of an OHCS approved computerized auditing tool.
 - 2) In homes where health and safety issues are identified 70% shall have the issues reduced or eliminated as grant funds allow.

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2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Attachment #Program Element 13
Energy Conservation Helping Oregonians (ECHO) Weatherization Assistance Program

1. **Description.** The Oregon Housing and Community Services Department has been designated by the Governor as the administrator of all federally funded low-income weatherization programs. Energy Conservation Helping Oregonians (ECHO) is a weatherization program funded by ratepayers of Portland General Electric and Pacific Power. Only low-income households (owners and renters) that are PGE or Pacific Power customers are eligible for the program.
2. **Scope of Work.**
 - A. Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its local work plan application as approved by OHCS and supplemented herein, together with applicable legal requirements including ORS 757.612 and OAR 813.205. The approved workplan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.
 - B. Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer ECHO funds in compliance with the following terms and conditions:
 - 1) May use funds for allowable administrative costs in order to provide the services outlined in this agreement.
 - 2) Use Training and Technical Assistance (T&TA) funds for the purposes of Training and Technical Assistance as outlined in ECHO guidelines. Subgrantee reserves the right to submit an OHCS budget change request to have funds moved for the purpose of providing weatherization assistance.
 - 3) Determine priority among program applicants by using at minimum the following criteria and such other criteria as satisfactory to OHCS:
 - a. Households with seniors as defined by those persons over the age of 60.
 - b. Households with disabled members.
 - c. Households with children eighteen years of age and under.
 - 4) Provide allowable weatherization assistance that may include, but is not necessarily limited to weatherization services, baseload, and energy education. Subgrantee and subrecipients may install 100% of cost-effective measures as determined through the use of an OHCS approved computerized auditing tool.
 - 5) Weatherization services and baseload, except for the purposes of Health and Safety, must have a grouped savings to investment ratio (SIR) of 1.0 or greater as determined through the use of an OHCS-approved auditing tool.
 - 6) Maintain a Health and Safety average not to exceed twenty percent (20%) of the subgrantee total program allocation and address Health and Safety issues as required by ECHO guidelines, including but not limited to:
 - a. Using WAP prescribed methods of home analysis to determine existing Health and Safety needs.
 - b. Testing for the presence of carbon monoxide and combustion appliance zone depressurization testing of one hundred percent (100%) of the homes.

- c. Installing Carbon Monoxide alarms in one hundred percent (100%) of homes.
 - d. Addressing Indoor air quality in all weatherized homes by performing pre- and post-blower door tests on one-hundred percent (100%) of homes weatherized and results used to determine the ASHRAE whole building ventilation rates for each home are met through the proper installation of vented exhaust fans with flow controllers in those homes. When providing energy education and/or Baseload services only, ASHRAE Standard 62.2 ventilation standards are optional when no moisture related air quality issues are noted.
 - e. Assessment of existing mold and mildew conditions in one hundred percent (100%) of homes weatherized with ECHO funds.
- 7) May use weatherization funds for the replacement of inefficient appliances as funding sources allow and dispose appliances in accordance with US Environmental Protection Agency (EPA) guidelines.
- 8) Provide energy education to qualified households through such means that may include, but are not limited to:
- a. Referral to another department within the subgrantee or subrecipient agency.
 - b. Referral to another agency that provides energy education services.
 - c. As part of the weatherization program. This may include, but is not limited to in-home energy education, or energy education as part of a classroom setting.
- 9) Maintain a Deferral policy that is satisfactory to OHCS. Once a Deferral is determined by the subgrantee or subrecipient, a "Letter of Service Denial" or "Delay Due to Site Conditions" shall be mailed to the applicant with the specific reason given. Deferral reasons may include, but are not limited to, the following:
- a. Structurally unsound dwelling.
 - b. Evidence of substantial, persistent infestation of rodents, insects, or other harmful/objectionable animals, which are difficult to control.
 - c. Electrical or plumbing hazards which cannot be resolved prior to, or as a part of, weatherization assistance.
 - d. The presence of raw sewage around or in any part of the dwelling.
 - e. Environmental hazards such as serious moisture problems, friable asbestos, or other hazardous materials, which cannot be resolved prior to or as a part of the weatherization assistance.
 - f. The presence of a dead animal, or animal feces, in any area of the dwelling where program staff must install weatherization measures.
 - g. Excessive debris in and around the dwelling which limits the program staff access to the dwelling.
 - h. Maintenance and housekeeping practices which are negligent to the point of limiting access of program staff to the dwelling.
 - i. An apparent threat of violence or abuse to any program staff member, or any household member, during the weatherization process.
 - j. The presence and/or use of any controlled substance in the dwelling during the weatherization process.
 - k. Dwelling in which the costs of repairs substantially exceed the cost of the weatherization measures.

- l. Major remodeling is in progress, limiting the proper completion of weatherization measures.
 - m. Substantial standing water in or around the crawl space or basement area limiting the proper completion of weatherization measures.
 - n. Proposed weatherization conservation measures will result in minimal energy savings and the cost of these measures have a savings to investment ration (SIR) of less than one (1).
 - o. Uncooperative property owner or tenant who refuses a weatherization measure, refuses to make modifications necessary to permit a measure to be completed, or refuses to allow contractor staff access to dwelling.
 - p. Home is being advertised as being for sale.
- 10) Require their weatherization contractors and weatherization programs have a certified lead safe renovator on staff.
 - 11) Require weatherization staff that provides energy audits and/or inspections in homes to attend health and safety training.
 - 12) Require at least one (1) staff members to be certified as a REM/Design operator. This requirement may be waived at the discretion of the OHCS program coordinator. A waiver shall only be in effect for the length of this contract.
 - 13) Carry an active contractor's license with Construction Contractors Board (CCB). Exceptions are Government Entities, Public Non-Profits, and Tribal Governments.
 - 14) Participate in peer exchange annually if the agency is determined to be "at risk" through the OHCS monitoring process. Agencies participating in peer exchange must follow peer exchange protocols as directed in the ECHO guidelines.
 - 15) Ensure every ECHO unit reported as a "completed unit" receives a final inspection aligning with and meeting the quality specifications outlined in the standard work specifications (SWS) aligned field guide.
 - 16) Ensure every ECHO unit reported as a "completed unit" has a form in the client file that certifies all of the work had a final inspection and that the work met the required standards.
 - 17) Provide subrecipients and/or contractors with technical requirements for field work including audits/testing; installation of energy conservation, health and safety and incidental repair measures; and final inspections. The subgrantee must confirm receipt of those requirements and provide follow-up and clarification upon request. A signature on a contract can serve as proof of receipt. The technical requirements must be clearly communicated and the specifications for work to be inspected must be referenced in subrecipient contracts. Contractors hired by the subgrantee and subrecipient must have agreements that include the same technical requirements referenced above. The work of the contractor must be consistent with the quality specifications outlined in the SWS aligned field guide.

3. Program Specific Reporting

- A Subgrantee shall, and shall cause and shall require its subrecipients by contract to comply with the following program specific reporting requirements:
 - 1) Ensure that data collection and reporting for ECHO funded activities be conducted through the use of the OHCS approved OPUS database or other OHCS designated service data information system and assure that data entry into OPUS occurs in an accurate and timely manner.
 - 2) Submit all reports as required in this agreement including but not limited to the "Weatherization Quarterly Program Report" which is due quarterly by the 20th of January, April, July, and October to OHCS.

- 3) Provide additional reports as needed and requested by OHCS.
- 4) May request a reporting deadline extension when necessary.

4. Performance Measures

- A. Subgrantee shall, and shall cause and shall require its subrecipients by contract to operate its low-income weatherization program in a manner designed to achieve the following performance goals:
- 1) Households served by the low-income weatherization program, utilizing funds from OHCS, should realize an average 12% savings in their annual energy bill due to weatherization improvements as predicted through proper use of an OHCS approved computerized auditing tool.
 - 2) In homes where health and safety issues are identified 70% shall have the issues reduced or eliminated as grant funds allow.

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2019 – 2021 MASTER GRANT AGREEMENT
Exhibit A, Program Element PE 14 CRF RENTAL RELIEF PROGRAM

1. Description. Coronavirus Relief Fund (CRF) Rental Relief Program provides federal funds from the U.S. Department of the Treasury, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 to the Oregon Housing and Community Services for rental assistance during the coronavirus (COVID-19) pandemic. The CARES Act requires payment from the CRF be used to cover expenses that 1) are necessary expenditures incurred due to the public health emergency with respect to the COVID-19; 2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and 3) were incurred during the period that begins on March 1, 2020 and ends on December 31, 2021.

2. Scope of Work.

A) Subgrantee shall and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement together with applicable program requirements provided in ORS 458.650. The remaining provisions of this Section 2 are supplemental to and do not limit the obligations of Subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this Agreement.

B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with the program requirements, including but not limited to the following terms and conditions:

1. Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care, developed coordinated entry requirements and department program requirements.
2. Assure that program services are available to low-income households, including but not limited to, veterans, persons more than 65 years of age, disabled persons, farm workers and Native Americans, who meet program eligibility requirements. Populations not defined in Exhibit A, Definitions, shall be defined by Subgrantee.
3. Conduct eligibility assessment for households who have lost employment or income related to COVID-19, been directly impacted by business closure related to COVID-19, diagnosed or exposed to COVID-19, or displaced or unstably housed as a result of public health measures taken to reduce the spread of COVID-19.
4. Utilization of program funds to address the specific needs of various homeless subpopulations is allowable. Specific targeting of funds shall not violate any Fair Housing Act or anti-discriminatory requirements.

3. Program Specific Reporting.

A) Subgrantee shall and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all HMIS reports as required in this Agreement. Subgrantee shall and shall cause and shall require its subrecipients to assure that data collection and reporting, which includes personally identifiable information, be conducted through the use of OHCS-approved HMIS. Subgrantee may request a reporting deadline extension when necessary. An extension request shall be approved by OHCS.

B) Reports submitted shall include:

- a. Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (October 20, January 20, April 20, July 20), to include ensuring that requests for funds have been submitted for all fiscal year expenses by July 30 of each fiscal year. Quarterly reports include personally identifiable information and other data collected through HMIS.
- b. Additional reports as needed or requested by OHCS.

4. Performance Measures.

- A) Subgrantee shall, and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goal:
- 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at time of their exit from the program or project funded by the program.

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2019-2021 MASTER GRANT AGREEMENT
Exhibit A, Program Element PE 15 Energy Assistance Stability (EAS) Program -
Coronavirus Relief Fund (CRF)

- 1. Description.** Coronavirus Relief Fund (CRF) Energy Assistance Stability (EAS) Program is intended to be responsive to the realities and challenges associated with COVID-19 by providing financial relief to vulnerable households for preventing, preparing for, or responding to COVID-19. These federal funds are provided from the U.S. Department of the Treasury, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 to the Oregon Housing and Community Services for rental assistance during the coronavirus (COVID-19) pandemic. The CARES Act requires payment from the CRF be used to cover expenses that 1) are necessary expenditures incurred due to the public health emergency with respect to the COVID-19; 2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and 3) were incurred during the period that begins on March 1, 2020 and ends on December 31, 2021.
- 2. Scope of Work.**

 - A. Subgrantee shall, and shall cause and shall require by contract that its sub-recipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this Agreement, including its local work plan application as approved by OHCS and supplemented herein, together with applicable legal requirements including section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the United States Department of the Treasury guidance attached hereto as Attachment 1. The approved work plan application is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its sub-recipients arising under this subsection 2A or otherwise under this agreement.
 - B. Subgrantee shall, and shall cause and shall require its sub-recipients by contract to administer EAS funds in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:

 - 1) Provide bill payment assistance with EAS funds anytime between July 1, 2020 and December 31, 2020 as funding allows.
 - 2) Assure that outreach is performed in a manner which ensures all eligible households are made aware of available EAS assistance. This includes, but is not limited to, placing posters in local and county social service offices, publishing articles in local newspapers, broadcast media announcements, and vendor billing inserts and/or mailings. Subgrantee may also execute interagency agreements with other low-income program offices to perform outreach tasks.
 - 3) Assure that applications for the EAS program are accepted at sites that are geographically accessible to all households across their service area.
 - 4) Ensure that individuals who are “homebound” (physically infirm) shall be provided alternative application methods, including, but not limited to phone, mail and/or home visits.
 - 5) If for any reason an eligible tribal member is unable to access their tribal EAS program (e.g., out of funds, geographically inaccessible, unanticipated hardship) they should be served as any other eligible household. Households affiliated with tribes not receiving EAS funds should be treated as any other applicant. Any deviation from these policies must be approved by OHCS.
 - 6) Assure that households receiving EAS benefits are determined to be eligible based on guidelines

provided by OHCS.

- 7) Use the payment guidelines as outlined in the Energy Assistance Operations Manual, along with supplemental guidelines, to determine EAS benefit levels. Any variation from statewide payment levels must be approved by OHCS.
- 8) Provide any of the following forms of assistance, or a combination thereof, to resolve energy related emergencies:
 - a. Bill payment assistance
 - b. Other emergency services- including, but not limited to, information, referral, coordination of benefits, advocacy, case management and/or other goods and services necessary to relieve immediate threat to health and safety.
- 9) Notify households regarding the amount of bill payment assistance to be provided. Applicants who apply by mail should receive a notice by mail or may be notified by telephone
- 10) Assure that participating home energy suppliers sign and comply with vendor contracts and ensure that no home energy supplier is paid with EAS funds without a signed contract. In cases where a home energy supplier is not under contract, households may be paid directly.
- 11) Authenticate all home energy suppliers paid with EAS funds. A process for authentication (e.g. verifiable tax ID, business documentation) must be outlined and approved in the local work plan application.
- 12) Pay home energy suppliers within 45 days of committing an EAS benefit, unless otherwise specified in the vendor contract.
- 13) Assure that applicants understand and sign a vendor release of information in cases where household information must be obtained from a utility/vendor.

3. Program Specific Reporting

- A. Subgrantee shall, and shall cause and shall require its sub-recipients by contract to, comply with the following program specific reporting requirements:
 - 1) Ensure that data collection and reporting for EAS funded activities be conducted through the use of OHCS approved OPUS database and assure that data entry into OPUS occurs in an accurate and timely manner as satisfactory to OHCS.
 - 2) Submit all reports as required in this agreement and outlined in the Energy Assistance Operations Manual as satisfactory to OHCS. Subgrantee may request a reporting deadline extension when necessary.
 - 3) Provide additional reports as needed or requested by OHCS.

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2021-2023 MASTER GRANT AGREEMENT
Exhibit A, Program Element PE 16
Emergency Solutions Grant Program – COVID-19 (ESG-CV)

1. Description. The Emergency Solutions Grant program - Coronavirus (ESG-CV) provides federal funds, as authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, to support local programs to assist very low-income individuals and families who have been affected by the COVID-19 pandemic, either through illness or from lost or reduced income. Households may be homeless, at risk of homelessness, or experiencing an economic crisis which could lead to homelessness in the future. ESG-CV funds may be used for five program service components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, and HMIS pursuant to 24 CFR Part 5, subpart F, Part 91 and Part 576, CFDA 14.231, 42 U.S.C. 11371-11378, OAR 813.145 as amended and ORS 458.505 to 458.545.

2. Scope of Work.

A) Subgrantee shall, and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its local Implementation Report as approved by OHCS, and supplemented herein, together with applicable program requirements including HEARTH Act, 24 CFR Part 576, CFDA 14.231, 42 U.S.C. 11371-11378, OAR 813.145 as amended and ORS 458.505 to 458.545. The approved Implementation Report is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to, and do not limit the obligations of subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this agreement.

B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with all program requirements, including but not limited to the following terms and conditions:

- 1) Expend no more than the percentage of funds indicated by OHCS (including allowable administrative costs shared with subrecipients) of its program award for allowable administrative costs in order to provide the services outlined in this agreement.
- 2) Conduct an applicant evaluation to determine eligibility for program services in alignment with OHCS and HUD requirements.
- 3) Re-evaluate program participant eligibility and need for program services for homelessness prevention and rapid re-housing in compliance with program requirements.
- 4) May utilize program funds to address the specific needs of various homeless subpopulations. Specific targeting of funds shall be outlined and approved by OHCS in the subgrantee's Implementation Report.
- 5) Comply with Conflict of Interest standards for both individuals and organizations as identified in 24 CFR 576.404(a), 24 CFR 85.36, and 24 CFR 84.42.

3. Program Specific Reporting.

A) Subgrantee shall and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all reports as required in this agreement. Subgrantee may request a reporting deadline extension when necessary.

B) Reports submitted shall include:

- 1) Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (Oct 20, Jan 20, Apr 20, Jul 20).
- 2) Additional reports as needed or requested by OHCS.

4. Performance Measures.

- A) Subgrantee shall and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goals.
- 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at the time of their exit from the program or project funded by the program. Preliminary statewide target is 30%.
 - 2) Increased housing stability as measured by the percentage of program participants who reside in permanent housing (those counted in the above performance goal one) and maintain permanent housing for six months from time of program or project exit. Statewide target is 80%.
 - 3) All other outcome measures indicated on the EPIC Outcome page of the subgrantee's approved Implementation Report.

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August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Intergovernmental Subrecipient Agreement with North
Clackamas Parks and Recreation District (NCPRD)-Milwaukie Center to
Provide Social Services for Clackamas County Residents

Purpose/Outcomes	Subrecipient Agreement with the NCPRD- Milwaukie Center to provide Older American Act (OAA) funded services for persons in the North Clackamas Parks and Recreation District area.
Dollar Amount and Fiscal Impact	The maximum agreement is \$424,192. The contract is funded through the Social Services Division Program agreements with the Oregon Department of Human Services, Oregon Housing & Community Resources; and various transportation agreements with TriMet & Ride Connection, Inc.
Funding Source	The Older American Act (OAA), Ride Connection pass-through funds, and Low Income Home Energy Assistance Program (LIHEAP) funds - no County General Funds are involved.
Duration	Effective July 1, 2021 and terminates on June 30, 2022
Previous Board Action	None
Strategic Plan Alignment	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.
County Counsel	1. Date of Counsel review: 6/24/21 2. Initials of County Counsel performing review: KR
Procurement Review	1. Was this time processed through Procurement? No 2. In no, provide brief explanation: This is a Subrecipient Grant agreement. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S #10207; Subrecipient #22-015

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of the Subrecipient Agreement with the North Clackamas Parks and Recreation District (NCPRD)-Milwaukie Center to provide Older American Act (OAA) funded services for persons living in the North Clackamas Parks and Recreation District area. The services provided include congregate and home delivered meals, evidence-based health promotion activities, transportation, and information and referral activities. These services link residents with resources to meet their individual needs. This helps them to remain independent and active in the community.

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August 5, 2021

In December 2015 Social Services issued a Notice of Funding Opportunity (NOFO) for a Subrecipient to provide Older American Act services for older persons in Clackamas County during Fiscal Year 2016-17, with an option for renewal for additional years. No agency other than NCPRD-Milwaukie Center showed an interest in providing these services in the North Clackamas Parks and Recreation District area, so an agreement with the NCPRD-Milwaukie Center was negotiated. This is the fifth and final agreement under this NOFO.

This agreement is effective July 1, 2021 and terminates on June 30, 2022. This agreement has been approved by County Council on June 24, 2021.

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,

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

**CLACKAMAS COUNTY, OREGON
SUBRECIPIENT GRANT AGREEMENT 22-015**

This Agreement is between **Clackamas County** (“COUNTY”), a political subdivision of the State of Oregon, acting by and through its Health Housing & Human Services Department, Social Services Division – Area Agency on Aging, and **North Clackamas Parks & Recreation District** by and for its **Milwaukie Center** (“SUBRECIPIENT”), a political subdivision of Clackamas County.

Clackamas County Data

Grant Accountant: Sue Aronson	Project Manager: Stefanie Reid-Danielson
Clackamas County – Finance 2051 Kaen Road Oregon City, OR 97045 503-742-5421 suea@clackamas.us	Clackamas County – Social Services Division 2051 Kaen Road Oregon City, OR 97045 503-655-8330 stefanierei@clackamas.us

Subrecipient Data

Finance/Fiscal Representative: Elizabeth Gomez	Program Representative: Marty Hanley
Administrative Services Mgr. 150 Beaver Creek Road, 4 th Floor Oregon City, OR 97045 503-657-0891 egomez@ncprd.com	Center Supervisor 5440 S.E. Kellogg Creek Dr. Milwaukie, OR 97222 503-794-8058 martyh@ncprd.com
FEIN:	DUNS: 791134534

RECITALS

1. Project description: This project is a cooperative effort by parties in providing the Area Agency on Aging's designated services of nutrition services, outreach, assessment, information and assistance, case management, reassurance, transportation, and health promotion for Clackamas County residents age 60 and older.
2. This Subrecipient Grant Agreement (“Agreement”) sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

NOW THEREFORE, according to the terms of this Agreement, COUNTY and SUBRECIPIENT agree as follows:

AGREEMENT

- 1. Term and Effective Date.** This Agreement shall become effective on the date it is fully executed by both parties. Funds issued under this Agreement may be used to reimburse Subrecipient for eligible program services delivered 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. Eligible program services must be approved in writing by COUNTY as outlined in Exhibit 1 relating to the project. No grant funds are available for expenditures after the expiration date of this Agreement.
- 2. Program.** The Program is described in Attached Exhibit 1 - Purpose, Service Descriptions and Service Objectives. SUBRECIPIENT agrees to perform the services 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, but not limited to, the Older Americans Act, 42 U.S.C. § 3001 et. seq., and 45 CFR 1321 (collectively "OAA"), that is the source of the grant funding. SUBRECIPIENT shall further comply with any requirements required by the State of Oregon, Department of Human Services, Community Services & Supports Unit Older Americans Act Program Standards, together with any and all 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 a combination of Federal, State and Local dollars as specified below by title and Catalog of Federal Domestic Assistance ("CFDA") number as appropriate. The maximum, not to exceed, grant amount that COUNTY will pay is **\$424,192**. This is a cost reimbursement grant and disbursements will be made in accordance with the requirements contained in Exhibit 5 – Reporting Requirements and Exhibit 6 – Budget and Units of Services.

 - a. Grant Funds:** COUNTY's funding of **\$341,571** in grant funds for this Agreement is OAA funds (CFDA: 93.043, 93.044, 93.052, 93.053) issued to COUNTY by the State of Oregon, Department of Human Services, Community Services & Supports Unit and **\$8,250** from Federal Transportation Administration funds (Federal Statute: 49 USC 5310; CFDA: 20.513) issued to COUNTY by Ride Connection, Inc., an Oregon nonprofit corporation.
 - b. Other Funds.** COUNTY's funding of **\$70,621** for transportation services outlined in this agreement are from Elderly and Disabled Transportation funds issued to COUNTY by Ride Connection, Inc. and TriMet; and **\$3,750** in for Low Income Home Energy

Assistance application assistance outlined in this Agreement are issued to COUNTY from HEAT Oregon, an Oregon nonprofit organization.

- 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 effective 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 one or more anticipated funding sources, including but not limited to ODHS/APD or the federal government, has determined 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.
 - e. Upon delivery of all contracted units or upon termination of this Agreement, unexpended balances of any 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.
- 8. Funds Available and Authorized.** SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving the awards described in section 4, above, together with any other 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 7.

- 10. Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
- a. Financial Management.** SUBRECIPIENT shall comply with 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. In addition, SUBRECIPIENT agrees to comply with the standards set forth in the “OAA.”
 - b. Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or “deferred” until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are “earned.” All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to COUNTY within 15 days.
 - c. Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within 30 days of becoming aware of the likely or actual changes and a statement of whether or not SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
 - d. 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.
 - e. Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from services provided during the funding period described in Section 1 of this Agreement.
 - f. Match.** SUBRECIPIENT agrees to provide matching funds for the services provided as outlined in Exhibit 6 – Budget and Units of Services.
 - g. Budget.** SUBRECIPIENT’s use of funds may not exceed the amounts specified in the Exhibit 6 – Budget and Units of Services. SUBRECIPIENT may not transfer grant funds between services without the prior written approval of COUNTY. At no time may budget modifications change the scope of the original grant application or Agreement.
 - h. Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.

- i. **Payment.** SUBRECIPIENT must submit a final request for payment no later than ten (10) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit 5 – Reporting Requirements.
- j. **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in Exhibit 5 – Reporting Requirements for each period (monthly, quarterly, and final) during the term of this Agreement.
- k. **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasurer Regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed Reimbursement Request on a monthly basis as specified in Exhibit 5 – Reporting Requirements.
- l. **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 (Exhibit 5 – Reporting Requirements), performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than 10 calendar days after the end date of this agreement.
- m. **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number (“DUNS”) as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, located at <https://www.sam.gov>.
- n. **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 <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.

- o. Lobbying.** SUBRECIPIENT certifies (Exhibit 7: Lobbying and Litigation) 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, which prohibits the use of Federal grant funds for litigation against the United States. SUBRECIPIENT certifies that it does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act (Public Law 104-65, section 3).
- p. 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/sac/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. 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 SUBRECIPIENT’S fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- q. 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 200.330-332. 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.
- r. Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of 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, in accordance with 2 CFR 200.334-337.

- s. **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for OAA Funding, 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 Clackamas County, as grantee, under those grant documents.
- t. **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 SUBRECIPIENT grant funds until compliance is met, 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 by law, in equity, or under this Agreement and all associated amendments.

11. Compliance with Applicable Laws

- a. **Federal Terms.** SUBRECIPIENT shall comply with the federal terms and conditions as outlined in Exhibit 3 - Required Federal Terms and Conditions, and incorporated herein.
- b. **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the agreement.
- c. **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 the County shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- d. **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.100) 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 (in accordance with 2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.

- e. **Criminal Records and Abuse Checks.** SUBRECIPIENT agrees to meet requirements set forth in OAR 407-007-0200 through 407-007-0370, ORS 181A.195 and 181A.200 and ORS 443.004. Subject individuals are employees of SUBRECIPIENT; volunteers of SUBRECIPIENT; employees and volunteers of SUBRECIPIENT's subcontractors and direct care providers of clients for which SUBRECIPIENT provides service authorization.

COUNTY will assist SUBRECIPIENT to meet this requirement by processing criminal record checks utilizing the Oregon Department of Human Services ("DHS") Oregon Criminal History and Abuse Records Database system ("ORCHARDS") for SUBRECIPIENT's subject individuals as requested.

- f. **Mandatory Reporting of Elder Abuse.** SUBRECIPIENT 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 SUBRECIPIENT's clients to whom SUBRECIPIENT provides services.

- g. **Americans with Disabilities Act.** SUBRECIPIENT will ensure 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 DHS Policy #010-005.

- h. **Human Trafficking.** In accordance with 2 CFR Part 175, SUBRECIPIENT, its employees, contractors and subrecipients under this Agreement and their respective employees may not:

- i. Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
- ii. Procure a commercial sex act during the period of time the award is in effect; or
- iii. Used forced labor in the performance of the Agreement or subaward under this Agreement, as such terms are defined in such regulation.

SUBRECIPIENT must inform COUNTY immediately of any information SUBRECIPIENT receives from any source alleging a violation of any of the above prohibitions in the terms of this Agreement. COUNTY may terminate this Agreement, without penalty, for violation of these provisions. COUNTY's right to terminate this Agreement unilaterally, without penalty, is in addition to all other remedies under this Agreement.

SUBRECIPIENT must include these requirements in any subaward made to public or private entities under this Agreement.

- i. **Confidentiality of Client Information.**

- i. All information as to personal facts and circumstances obtained by SUBRECIPIENT on the client shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, the responsible parent of a minor child, or his or her guardian 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.

- ii. The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.
- iii. DHS, COUNTY and SUBRECIPIENT will share information as necessary to effectively serve DHS Clients.

12. SUBRECIPIENT Standard Terms and Conditions. SUBRECIPIENT shall comply with the terms and conditions as incorporated hereto in Exhibit 4 – Subrecipient Standards Terms and Conditions.

14. 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.
- 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.

15. 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 breach of any term of this Agreement including, but not limited to, any claim by a State or Federal funding source that SUBRECIPIENT used funds for an ineligible purpose; or (2) SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
 - i. **Ride Connection/Tri-Met funds:** To the fullest extent permitted by law, SUBRECIPIENT agrees to fully indemnify, hold harmless and defend Ride Connection, Inc. ("Ride Connection") its directors, officers, employees and agents, TriMet, its officers employees and agents, and the State of Oregon, its officers, employees and agents, from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense thereof including reasonable attorney's fees resulting from or arising out of the activities of SUBRECIPIENT, its officers, directors, employees, agents, subcontractors and volunteers under this Agreement.
 - ii. **Non-Medical rides for Medicaid clients funds:** SUBRECIPIENT shall defend, save, hold harmless, and indemnify the State of Oregon, Human Services Division and their officers, agents, and employees from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of SUBRECIPIENT or its officers, employees, subcontractors, or agents, in performance of this Agreement.
- c. **Insurance.** SUBRECIPIENT is self-insured for workers' compensation, and general, auto and professional liability, in accordance with the provisions of ORS 30.272 (Tort Claims Act) and ORS 656.403 (Workers' Compensation). COUNTY maintains an insurance fund from which to pay all costs and expenses relating to claims for which it is self-insured. COUNTY's exposure for general, auto and professional liability is limited by ORS 30.272 to: \$126,200/\$630,800 property damage and \$1,538,000 total damages per occurrence.

- i. **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability, shall include the below as a additional insureds.
 - (a) Required by State of Oregon for OAA funded services and non-medical rides for Medicaid clients – Insurance must provide that the State of Oregon, Department of Human Services, and its divisions, officers and employees are Additional Insured but only with respect to the transportation services funded under Agreement between the State of Oregon and Clackamas County Social Services.
 - (b) Required for Ride Connection/Tri-Met Transportation Funding – the insurance shall:
 - (i) include Ride Connection and Tri-Met and its directors, officers, representatives, agents, and employees as additional insured with respect to work or operations connected with providing transportation;
 - (ii) give Ride Connection and Tri-Met not less than thirty (30) days-notice prior to termination or cancellation of coverage; and
 - (iii) include an endorsement providing that the insurance is primary insurance and that no insurance that may be provided by Ride Connection or Tri-Met may be called in to contribute to payment for a loss.

- ii. **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 onto the policy.

- iii. **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.

- iv. **Certificates of Insurance.** As evidence of the insurance coverage required by this agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. No agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the Agreement have been compiled with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.

- v. Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
 - vi. 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.
 - vii. Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.
- d. Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
- e. 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.
- f. 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.
- g. 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. 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.

- h. 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.
- i. 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.
- j. 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.
- k. Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- l. Integration.** This Agreement contains the entire agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or agreements. When a requirement is listed both in the main boilerplate of the agreement and in an Exhibit, the Exhibit shall take precedence.

This Agreement consists of fifteen (15) sections plus the following exhibits which by this reference are incorporated herein:

- Exhibit 1 Purpose, Scope of Work and Service Objectives and Elements of Completion
- Exhibit 2 Transportation Provider Standards
- Exhibit 3 Required Federal Terms and Conditions
- Exhibit 4 Subrecipient Standard Terms and Conditions
- Exhibit 5 Reporting Requirements
- Exhibit 6 Budget and Units of Service
- Exhibit 7 Congressional Lobbying Certificate
- Exhibit 8 Center Response from Previous Solicitation

(signature page follows)

SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

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

CLACKAMAS COUNTY
Social Services Division

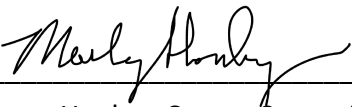
Commissioner: Tootie Smith, Chair
Commissioner: Sonya Fischer
Commissioner: Paul Savas
Commissioner: Martha Schrader
Commissioner: Mark Shull

Signing on Behalf of the Board:

By: _____
Tootie Smith, Chair

Dated: _____

Approved as to Program Content:



Marty Hanley, Center Supervisor

Approved to Form:

By: _____
County Counsel

CLACKAMAS COUNTY
NCPRD – Milwaukie Center

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

Dated: _____

Brenda Durbin, Social Services Div. Director

Exhibit 1

PURPOSE, SERVICE DESCRIPTION AND SERVICE OBJECTIVES

1. PURPOSE OF THE SERVICES

The purpose of this contract is the cooperation of both parties in providing the Area Agency on Aging's designated services of nutrition services, outreach, assessment, information and assistance, case management, reassurance, transportation, and health promotion for Clackamas County residents age 60 and older ("Work"). The goal in providing these services is to assist older residents in meeting their individual needs by linking them with County resources.

2. DESCRIPTION OF SERVICES

- a. **CASE MANAGEMENT:** Is an in-depth interview with a client to provide access to an array of service options to assure appropriate levels of service and to maximize coordination in the service delivery system. Case management must include four general components: access, assessment, service implementation, and monitoring:
 - i. Access & Assessments:
 - (1) Informing clients of available services and, where appropriate, developing a goal-oriented service plan.
 - (2) Utilize an approved County-wide standardized assessment/intake form.
 - (3) Assessment is re-done with a change in client life situation/condition - every six to twelve months.
 - (4) May be billed upon submission of assessment/intake form.
 - ii. Service Implementation & Monitoring:
 - (1) Provide early identification of current or potential problem areas.
 - (2) Assess the need for changes/improvements in service.
 - (3) Identify any gaps/unmet needs.
 - (4) Review intervention results to determine if what was done achieved the desired result.
 - (5) Determine if services should be discontinued.
 - (6) Case monitoring services are available to frail but mobile elderly as well as homebound individuals.
- b. **REASSURANCE:** Regular friendly telephone calls and/or visits to physically, geographically or socially isolated registered clients that are receiving services to determine if they are safe and well, if they require assistance, and to provide reassurance. A unit is one contact.
- c. **INFORMATION & ASSISTANCE:** Consists of request for assistance locating resources to meet a specific need, or assistance prioritizing and locating resources to meet multiple needs. Inquiries require:
 - i. Informal assessment of the client's needs.
 - ii. Evaluation of appropriate resources.
 - iii. Assistance linking the client to the resources.

- iv. Completion of an intake form to document background information on the client, the client's needs and what actions or referrals were made.
 - v. Follow up with the client or agency to see if the needs were met.
 - vi. Tallying the category of need for each inquiry.
 - vii. Documenting any unmet needs including recording the request, resources tried and the reason unable to help.
- d. PUBLIC OUTREACH/EDUCATION:** Is a service or activity to provide information to groups of current or potential clients and/or aging network partners and other community partners regarding available services for the elderly.
- e. TRANSPORTATION:** Is the service that provides one-way rides for older persons and younger persons with disabilities. The goal is to ensure that transportation needs are met for those who are unable to meet their transportation needs independently. OAA funded rides are scheduled for persons who are age 60 and older for trips to medical appointments, clinics, personal business and to senior center activities. Ride Connection funded rides are scheduled for individuals age 60 and older and for persons with disabilities age 18 and over for medical appointments, clinics, personal business, shopping, nutrition and recreation activities.
- i. Milwaukie Center Transportation Consortium Goals:
 - (1) Continue coordination with H3S-SSD's Transportation Reaching People program.
 - (2) Increase replacement reserve fund with separate accounting
 - (3) Assure all drivers meet Ride Connection training and eligibility requirements as defined in the Operations Manual for Transportation Coordinators.
 - (4) Continue regular publicity/marketing efforts regarding transportation program
 - (5) Continue to explore ways to increase ridership, including contact with long term care facilities in the area.
 - (6) Attend all scheduled Transportation Consortium meetings.
 - ii. Guidelines for Non-Medical Transportation for Waivered Medicaid Clients
 - (1) This funding source is available for Medicaid clients who are receiving "waivered" services. Medicaid clients with a case manager who reside in all types of living situations except nursing facilities are waivered Medicaid clients. All rides must be authorized in writing on a NON MEDICAL RIDE REFERRAL FORM FOR WAIVERED MEDICAID CLIENT form by an Aging and Disability Services case manager before reimbursement may be requested for them. NCPRD-MILWAUKIE must keep the client ride authorizations on file – faxed forms are adequate. Case Managers will authorize rides yearly, at a minimum and will note the need for non-medical transportation in the client's signed case plan. H3S-SSD will coordinate completion and distribution of forms for NCPRD-MILWAUKIE and case managers through the Transportation Reaching People (TRP) program.
 - (2) Services shall be billed by NCPRD-MILWAUKIE according to the following rate scale:

One person, one-way ride:	\$17.00 per ride
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 - (3) Clients receiving the rides will not be asked or expected to contribute to the cost of the ride.

- (4) Trips will be tracked daily by client and type of ride. This information will be sent monthly to H3S-SSD, and be available for State and Federal representatives for audit purposes.
- iii. NCPRD-MILWAUKIE will be responsible for:
 - (1) recruitment of volunteer and/or paid drivers who will qualify for insurance coverage or who are willing to provide proof of coverage as drivers, and maintaining an adequate number of qualified volunteer and/or paid drivers to provide services.
 - (2) orientation of drivers to the transportation program and informing them of other specialized training opportunities required to maintain safety of operations.
 - (3) submission of criminal record check requests on all potential drivers and receiving satisfactory reports back prior to scheduling them to transport any client.
 - (4) drug and alcohol testing on all potential paid drivers prior to hiring them is recommended for all drivers of Center-owned mini vans and buses, including volunteers.
- f. **FOOD SERVICE:** Is the production of meals for the congregate and home delivered meal recipients of the Milwaukie Center. Each meal must contain at least one-third of the Recommended Dietary Allowance (RDA) as established by the Food and Nutrition Board, National Research Council - National Academy of Science. A unit is one meal prepared and served, delivered, or a HDM "late-cancel."
- g. **MEAL SITE MANAGEMENT:** Meal Site Management includes such tasks as: supervising final on-site preparation and serving/delivery of meals to eligible congregate and home-delivered participants; recruiting, training, scheduling and monitoring program volunteers; determining eligibility of participants; collecting and accounting for participant donations; completing and submitting required budget and program reports, providing events and activities for meal site participants; meeting with meal site Advisory Committee; and publicizing meal site in the North Clackamas Park & Recreation District service area to enhance visibility and encourage participation. One unit is one meal served.
- h. **OAA HDM Assessment:** a means of determining a homebound older person's eligibility for home-delivered meals per the Oregon Nutrition Service Program standards.
- i. **EVIDENCE-BASED HEALTH & WELLNESS PROGRAMS** – The provision of Evidence-based Health & Wellness Program programs that either focus on strength, balance, and flexibility exercise to promote physical activity and/or prevent falls or focus on disease self-management/stress management. Any program under this service must demonstrate to be evidence-based and effective with older populations.
- j. **CAREGIVER RESPITE** – Services that offer temporary, substitute supports or living arrangements for care recipients in order to provide a brief period of relief or rest for unpaid caregivers served under the Family Caregiver Support Program. To be eligible for caregiver respite, the care recipient must either: (1) be unable to perform at least two activities of daily living (ADL's) without substantial human assistance, including verbal reminding, physical cueing OR (2) due to a cognitive or other mental impairment, require substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or another individual.

- k. **LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP) Intakes** – A service provided by NCPRD-MILWAUKIE staff to assist vulnerable, homebound, low income County residents in completing applications for LIHEAP funds. A unit of service is one correctly completed, accepted application submitted to H3S-SSD prior to the November 30, 2015 deadline.

3. SERVICE OBJECTIVES

a. **Case Management**

Objective: To provide contracted units of service throughout the contract period for County residents age 60 and older who are identified as needing assistance from County agencies.

Elements:

- i. NCPRD-MILWAUKIE Client Services Coordinator (CSC) assesses clients within two weeks following their request for services or referral from another source (outreach effort, gatekeeper, neighbor, family member, etc.).
- ii. NCPRD-MILWAUKIE CSC completes assessment on a H3S-SSD approved assessment/intake form.
- iii. NCPRD-MILWAUKIE CSC writes case plan, as appropriate, for the client from the information gathered on the assessment form.
- iv. NCPRD-MILWAUKIE CSC re-assesses clients' service needs/eligibility every six months or when their condition or life situation dramatically changes
- v. NCPRD-MILWAUKIE CSC reviews client case plans quarterly, at a minimum, and provides follow up contact by phone or home visits.
- vi. NCPRD-MILWAUKIE CSC (upon request from client, other agency or family member) provides additional follow up to coordinate services.
- vii. NCPRD-MILWAUKIE CSC consults with SPD Case Manager (if client has one) to maximize coordination of services. Consultations will be annotated on Case Monitoring forms within 2 work days.
- viii. NCPRD-MILWAUKIE CSC documents all reviews and additional follow ups on case monitoring contact forms which are kept in client record file.
- ix. NCPRD-MILWAUKIE CSC keeps all client information in a secured area, accessible to only authorized personnel.

b. **Reassurance**

Objective: To provide contracted units of service throughout the contract period for County residents age 60 and older who are identified as needing assistance from County agencies.

Elements:

- i. NCPRD-MILWAUKIE Client Services Coordinator ("CSC") assesses clients provides follow up contact by phone to ensure that services outlined under case plan are meeting clients need.

- ii. NCPRD-MILWAUKIE CSC documents all reviews and additional follow ups on case monitoring contact forms which are kept in client record file.
- iii. NCPRD-MILWAUKIE CSC keeps all client information in a secured area, accessible to only authorized personnel.

c. Information and Assistance - H3S-SSD Responsibilities

Objective: To provide NCPRD-MILWAUKIE with training, technical assistance, resource development, networking and information sharing.

Elements:

- i. H3S-SSD will provide orientation on H3S-SSD's I&R program to NCPRD-MILWAUKIE I&A staff.
- ii. H3S-SSD will notify NCPRD-MILWAUKIE's I & A Specialist of "Networking" I & R Breakfast Meetings and schedule speakers to meet interests expressed by NCPRD-MILWAUKIE.

d. Information and Assistance - NCPRD-MILWAUKIE Responsibilities

Objective 1: Have a system in place which enables NCPRD-MILWAUKIE to provide referral services to link people with needs to the appropriate resources.

Elements:

- i. NCPRD-MILWAUKIE will designate a single individual (paid or volunteer) who is at least 0.5 FTE with the NCPRD-MILWAUKIE as an I & A Specialist.
- ii. NCPRD-MILWAUKIE will notify H3S-SSD I & A Coordinator and Contract Specialist within 30 days of any change in NCPRD-MILWAUKIE's designated I & A Specialist, and will schedule an on-site training with the H3S-SSD I & A Coordinator for the new designee within 60 days of appointment.
- iii. NCPRD-MILWAUKIE's I & A Specialist will attend a minimum of 6 monthly H3S-SSD "Networking" I&R breakfasts meeting each year and attend Scheduled CSC meetings.
- iv. NCPRD-MILWAUKIE's I & A Specialist will update center information for the H3S-SSD 's Community Resources Guide, initiate notification to H3S-SSD 's I&R program regarding any changes to NCPRD-MILWAUKIE programs, and notify H3S-SSD 's I&R program of any significant changes in local community resources.
- v. NCPRD-MILWAUKIE I & A Specialist will compile and submit quarterly data reports, including a description of unmet needs, to the Contract Specialist for forwarding to the H3S-SSD I & A Coordinator by the 10th day following each quarter.

Objective 2: To provide contracted units of service throughout the contract period for County residents age 60 and older who need help identifying resources to meet their individual needs.

Elements:

- i. NCPRD-MILWAUKIE Director or CSC annotates name, Medicaid status, address, phone number, date of request, and nature of request/need.
- ii. NCPRD-MILWAUKIE makes referral and follows up with client within a 2 day work period.

- iii. NCPRD-MILWAUKIE annotates follow up taken and number of referrals needed on Referral Log.
- iv. NCPRD-MILWAUKIE Director keeps completed Referral Logs in a secured area, accessible to only authorized personnel.

5. Public Outreach/Education

Objective: To provide information to groups of current or potential clients and community partners about available services for North Clackamas Park & Recreation District service area residents age 60 and older.

Elements:

- i. NCPRD-MILWAUKIE schedules and makes presentations to local groups throughout the contract year.
- ii. NCPRD-MILWAUKIE keeps a record of information given to groups such as:
 - a) outline of presentation
 - b) copies of flyers, brochures, etc. distributed
 - c) names and number of people in group presented to

6. Transportation

Objective: To provide contracted units of service throughout the contract period for County residents age 60 and older, and to younger persons with disabilities who are unable to meet their transportation needs.

Elements:

- i. NCPRD-MILWAUKIE designates one person to be coordinator for the transportation program. This person will be responsible for:
 - a) Recruiting drivers.
 - b) Submitting criminal checks
 - c) Ensuring all drivers meet Ride Connection training requirements
 - d) Scheduling road tests for all drivers.
 - e) Conducting periodic/seasonal driver safety training.
 - f) Providing a copy of written procedures for transportation services to each driver.
 - g) Scheduling vehicle maintenance.
 - h) Maintain daily Pre- and Post- trip Reports
- ii. NCPRD-MILWAUKIE provides transportation as scheduled each day.
- iii. NCPRD-MILWAUKIE maintains system to document each trip of each day.

7. Food Service

Objective 1: To produce and deliver contracted number of meals throughout the contract period.

Elements:

- i. NCPRD-MILWAUKIE submits each month's menu to H3S-SSD's contract Registered Dietitian (RD) by the first day of the preceding month. Menus must meet the following standards:
 - a) Each meal must contain at least 1/3 of the Dietary Reference Intakes (DRI) as established by the Food and Nutrition Board, National Research Council - National Academy of Science, for Male 70+ or Female 70+, whichever is greater. (Milk is part of Site Management.) Nutrition providers are strongly encouraged to use computerized nutrient analysis to assure meals are in compliance with nutritional requirements.
 - b) The cycle for the cycle menu system must be at least nine weeks long.
 - c) A Registered Dietitian (RD) must review and sign the menus to certify that they meet the one-third RDI. They should also incorporate the whole grains, fruits, vegetables and low-fat dairy products that meet the current Dietary Guidelines for Americans; specifically persons 70 years of age and older.
 - d) Menus should reflect the tastes and appetites of the current elderly population.
 - e) Menus should incorporate a variety of foods and preparation methods with contrasts in color, texture, sizes, shapes, and flavors. Food items should not be repeated two days in a row, or on same day of consecutive weeks. Menus should reflect seasonal availability of fresh fruits and vegetables.
 - f) All items must be specifically identified in the menu. Listing such things as "Fruit in Season", "Vegetable" or "Cookie" does not provide enough information. Each menu item should be easily identified by its name.
 - g) A special meal should be planned for major holidays, such as Thanksgiving and Christmas. These meal dates will be coordinated with meal site staff. A special food and/or meal planned for lesser holidays, such as Valentine's Day and Mother's Day would also be encouraged.
 - h) Menus should be served as written and approved. If changes are necessary, they must be of comparable nutrient value. Each change is to be recorded on the working and/or file copy of the menu and initialed and dated by a supervisor. Updated menu must be posted for meal participant's information.

Objective 2: To provide Special Diet Meals to meet participants' needs. Menus shall be planned and meals available for the modified diets listed below:

Elements:

- i. Uncalculated Diabetic. Eliminates items high in sugar by substituting products or recipes that use artificial sweeteners. The carbohydrate content of the meal should represent approximately 50% of the total calories.

- ii. Moderate Sodium Restricted. Eliminates menu items or foods that are naturally high in sodium (not to exceed 1.2 grams per meal).
- iii. Low Cholesterol. Eliminates menu items or foods that are naturally high in cholesterol and/or fat (not to exceed 100 mg per meal).

Objective 3: To use standardized recipes and portion control.

Elements:

- i. Recipes used by NCPRD-MILWAUKIE should be adapted to the requirements of a Title III Senior Nutrition meal.
- ii. Recipes should be standardized for the kitchen, equipment, ingredients, and skills of personnel using them.
- iii. Recipes should be adjusted for yield based on portion size and the number of people being served that particular meal.
- iv. Food service employees must understand and be able to use standardized recipes and produce standard portions.

Objective 4: To procure food from sources that comply with all federal, state and local laws that relate to food production, manufacturing, packaging and labeling. Donated food that meets the above standards may be used.

Objective 5: To comply with all federal, state and local laws and regulations pertaining to sanitation requirements and practices in food production, storage, transportation, and service.

Elements:

- i. A sanitation inspection by a Registered Sanitarian from the State Health Division or local health department is required every six months.
- ii. A copy of each inspection report is to be mailed to H3S-SSD within five working days of receipt, along with a written plan (including timelines) of any required corrective action.
- iii. Contractor must establish and use sanitary procedures for packaging and transporting food from kitchen for home delivered meals. This will include procedures for maintaining proper temperatures and cleaning and sanitizing all transport equipment.
- iv. Food temperatures shall be taken and recorded as the food is panned to leave the production area for transport. Records of these temperature checks shall be maintained in the Contractor's files.
- v. Oregon Nutrition Program Standards and Oregon Administrative Rules, Chapter 333, Food Sanitation Rules must be followed.

Objective 6 To employ qualified, trained personnel to assure satisfactory performance.

Elements:

- i. NCPRD-MILWAUKIE must have at least one employee in the kitchen who has completed a community college-level food service sanitation course.
- ii. NCPRD-MILWAUKIE must have a new employee orientation.
- iii. NCPRD-MILWAUKIE must have a training plan that includes training for employees and supervisory staff.

j. MEAL SITE MANAGEMENT

Objective 1: To supervise preparation of meals, serving meals to congregate participants, and delivery of meals to home delivered clients.

Elements:

- i. Procurement of milk is part of site management.
- ii. Packaging of home delivered meals is part of site management.

Objective 2: To organize and supervise the recruiting, training, scheduling and monitoring of program volunteers.

Objective 3: To determine eligibility of participants and target services to individuals who are in the greatest economic or social need, with particular attention to low income minority individuals.

Elements:

- i. Economic need is defined as income equal to or less than the poverty level as determined by the Department of Commerce.
- ii. Persons with social need are those persons who have at least two of the following characteristics:
 - (1) be 75 years or older
 - (2) live alone
 - (3) have a physical or mental impairment which prevents proper functioning within society
 - (4) be of a minority group
 - (5) have no significant other(s)

Objective 4: To offer a range of events and activities to enhance daily living efforts of older people or to provide opportunity for their participation in community life.

Elements:

- i. NCPRD-MILWAUKIE plans educational presentations in areas such as nutrition, health, safety, utilization of community services and programs, and other topics of interest to participants.
- ii. NCPRD-MILWAUKIE provides opportunities to promote personal growth and self-image.
- iii. NCPRD-MILWAUKIE provides opportunities for a variety of types and levels of involvement.
 - (1) Small and large group activities
 - (2) Active and spectator participation
 - (3) Participation with the general community and other generations.
- iv. NCPRD-MILWAUKIE plans activities which are flexible and responsive to change in:
 - (1) Individual participant needs and interests.
 - (2) Characteristics of the service area's older population.
 - (3) Other programs in the relevant service area.

Objective 5: To inform the community about the meal site program.

Elements:

- i. NCPRD-MILWAUKIE publicizes programs in local newspapers, flyers, brochures, posters, fraternal organizational meetings, etc.
- ii. NCPRD-MILWAUKIE ensures Center is identified by an easily visible sign at its entrance.
- iii. NCPRD-MILWAUKIE posts monthly menus in an obvious position in the Center and delivers them to home-bound clients each month.
- iv. NCPRD-MILWAUKIE mails or delivers calendar of upcoming Center activities to current and potential participants.

Objective 6: To plan for provision of services in cooperation with site Advisory Committee and Area Agency on Aging (AAA) Adult Center Liaison Committee.

Elements:

- i. NCPRD-MILWAUKIE identifies needs and concerns specific to the Center and service area participants.
- ii. NCPRD-MILWAUKIE incorporates information from other service providers, community agencies, and governmental organizations in providing services.
- iii. NCPRD-MILWAUKIE conducts program participant satisfaction survey at least once per year.

Objective 7: To collect, account for and report program income (participant donations).

Elements:

- i. NCPRD-MILWAUKIE provides each participant (congregate and home delivered) with an opportunity to voluntarily contribute to the cost of the service.
- ii. NCPRD-MILWAUKIE sets up container for donations at meal site which ensures and protects the privacy of the participants.
- iii. NCPRD-MILWAUKIE has system set up at site to collect full meal price from persons not eligible for services.
- iv. NCPRD-MILWAUKIE posts:
 - (1) full cost of the meal, and
 - (2) a notice describing the donation and payment policies.
- v. NCPRD-MILWAUKIE may post suggested donation information if it is clear that:
 - (1) every donation from an eligible participant is on a "pay what you can afford" basis, and
 - (2) no means test is used in the collection of contributions or provision of the meals.

9. OAA HDM Assessment

Objective:

Elements:

Determine eligibility of homebound older adults and target services to individuals who are in the greatest economic or social need, with particular attention to low income minority individuals.

- i. Conduct an in-person assessment of homebound older adult's nutritional needs.
- ii. Evaluates the recipient's strengths and limitations with regards to meeting their nutritional needs.
- iii. Review other means of realistically obtaining consistent and adequate meals such as shopping assistance, assistance from friends/family, attending congregate meals should be explored.

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10. Evidence-based Health & Wellness Program

Objective: To provide contracted units of service throughout the contract period.

Elements:

- i. NCPRD-MILWAUKIE regularly schedules classes that meet the evidenced-based requirements and either include a focus on strength, balance, and flexibility to promote physical activity and/or prevent falls or on disease self-management/stress management.
- ii. NCPRD-MILWAUKIE registers participants for activities, obtaining a waiver to injury for each participant if necessary.
- iii. NCPRD-MILWAUKIE has physical condition of clients assessed before setting up plan for workouts with equipment.

11. Caregiver Respite –

Objective: To provide contracted units of service for family members of eligible under the Family Caregiver Support Program.

Elements:

- i. NCPRD-MILWAUKIE respite program coordinator (RPC) interviews care providers to determine appropriateness of clients to program.
- ii. NCPRD-MILWAUKIE RPC registers clients in program.
- iii. NCPRD-MILWAUKIE staff, led by an RN, provide weekly activity program for respite clients.

12. Low Income Home Energy Assistance Program (LIHEAP) Intakes

Objective: To provide contracted units of service throughout the contract period.

Elements:

- i. NCPRD-MILWAUKIE Client Services Coordinator (CSC) assists home-bound clients with the completion and submission of a LIEAP annual application.
- ii. NCPRD-MILWAUKIE CSC ensures that the application form is completed per program requirements.

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Exhibit 2
Transportation Provider Standards

A. Vehicle Standards

1. SUBRECIPIENT shall maintain its vehicles to provide comfortable and safe Rides to Clients. SUBRECIPIENT's vehicles shall meet the following requirements:
 - a. The interior of the vehicle shall be clean;
 - b. SUBRECIPIENT shall not smoke or permit smoking in the vehicle;
 - c. SUBRECIPIENT shall maintain appropriate safety equipment in the vehicle, including but not limited to:
 - i. First Aid Kit;
 - ii. Fire Extinguisher;
 - iii. Roadside reflective or warning devices;
 - iv. Flashlight;
 - v. Chains or other traction devices (when appropriate); and,
 - vi. Disposable gloves.
 - d. SUBRECIPIENT shall maintain the vehicle in good operating condition, by providing the following:
 - i. Seatbelts;
 - ii. Side and rear view mirrors;
 - iii. Horn; and,
 - iv. Working turn signals, headlights, taillights, and windshield wipers.
2. SUBRECIPIENT shall maintain a preventative maintenance schedule, which incorporates, at a minimum, all maintenance recommended by the vehicle manufacturer. SUBRECIPIENT shall comply with appropriate local, state, and federal transportation safety standards regarding passenger safety and comfort. SUBRECIPIENT shall provide all equipment necessary to transport Clients using wheelchairs.

B. Drivers

1. SUBRECIPIENT shall inform drivers of their job duties and responsibilities and provide training related to their job duties. SUBRECIPIENT shall also:
 - a. Brief drivers about the Non-Medical Transportation Services, reporting forms, vehicle operation, and the geographic area in which drivers will be providing service;
 - b. Ensure that drivers are capable of safely operating vehicles;
 - c. Require drivers to complete the National Safety Council Defensive Driving course, or an equivalent course, within six months of date of hire;
 - d. Require drivers to complete Red Cross approved First Aid, Cardiopulmonary Resuscitation and blood spill procedures within six months of date of hire prior to providing Medicaid Non-medical transportation services to Clients;
 - e. Require drivers to complete passenger assistance training, as required by the Americans with Disabilities Act; and,
 - f. Establish procedures for drivers to deal with situations in which emergency care is needed for Clients that they have been assigned to transport.
2. SUBRECIPIENT's selection of its drivers shall include:

- a. Verification that the driver has an appropriate and valid, unrestricted State of Oregon driver's license as defined in ORS Chapter 807 and OAR Chapter 735, Division 062; and,
- b. Verification that the driver has not been convicted of any crimes against people or any drug or alcohol related offenses. If a Provider desires an exception to this requirement, such exception shall be made only with the approval of COUNTY and shall be dependent upon when the crime occurred, nature of the offense, and other circumstances to assure Clients is not placed at risk of harm from the driver.

C. Vehicles

1. SUBRECIPIENT shall operate the vehicles listed below that are owned by Ride Connection, to deliver transportation services as outlined in this agreement
 - a. 2010 Ford Aerotech; VIN: 1FDFE4FS4ADA78976
 - b. 2013 Ford Elkhart; VIN: 1FDFE4FS2DDA64191
 - c. 2014 Ford Goshen, VIN: 1FDDEE4FL4EDA05701
2. SUBRECIPIENT shall perform vehicle maintenance in accordance with manufacturer's specifications. All invoices for maintenance performed shall be input by SUBRECIPIENT into the Ride Connection vehicle maintenance database at the time service is completed. If SUBRECIPIENT is unable to access database invoices are to be faxed to Ride Connection's Fleet Maintenance Unit.
3. Ride Connection will submit to ODOT, on a quarterly basis, request for reimbursement of qualified vehicle maintenance performed and entered in the database. COUNTY will distribute these fund to SUBRECIPIENT within 21 days of receipt of payment from Ride Connection.

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EXHIBIT 3

Required Federal Terms and Conditions

General Applicability and Compliance. Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, SUBRECIPIENT 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 SUBRECIPIENT, or to the Work, 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.** SUBRECIPIENT 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 Work. Without limiting the generality of the foregoing, SUBRECIPIENT 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 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 Work in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then SUBRECIPIENT 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 \$150,000 then SUBRECIPIENT 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 DHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. SUBRECIPIENT shall include and require all subcontractors to include in all contracts with subcontractors

receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.

- 4. Energy Efficiency.** SUBRECIPIENT 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, SUBRECIPIENT certifies, to the best of SUBRECIPIENT's knowledge and belief that:
 - a.** No federal appropriated funds have been paid or will be paid, by or on behalf of SUBRECIPIENT, 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, SUBRECIPIENT shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - c.** SUBRECIPIENT shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, 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 section 1352, Title 31 of the 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.
 - e.** No part of any federal funds paid to SUBRECIPIENT 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 SUBRECIPIENT 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 SUBRECIPIENT 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. HIPAA Compliance.** To the extent that any Work or obligations of SUBRECIPIENT related to this Agreement are covered by the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), SUBRECIPIENT must comply. SUBRECIPIENT shall determine if SUBRECIPIENT will have access to, or create any protected health information in the performance of any Work or other obligations under this Agreement. To the extent that SUBRECIPIENT will have access to, or create any protected health information to perform functions, activities, or services for, or on behalf of, COUNTY as specified in the Agreement, SUBRECIPIENT shall comply and cause all subcontractors to comply with the following:
- a.** Privacy and Security of Individually Identifiable Health Information. Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between SUBRECIPIENT and COUNTY for purposes directly related to the provision of services to Clients which are funded in whole or in part under this Agreement. To the extent that SUBRECIPIENT is performing functions, activities, or services for, or on behalf of COUNTY, in the performance of any Work required by this Agreement, SUBRECIPIENT shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate OAR 407-014-0000 et. seq., or COUNTY HIPAA Privacy Policies and Notice of Privacy Practices. A copy of the most recent COUNTY HIPAA Privacy Policies and Notice of Privacy Practices may be obtained by contacting COUNTY.
 - b.** Data Transactions Systems. If SUBRECIPIENT intends to exchange electronic data transactions with COUNTY in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction,

SUBRECIPIENT shall execute an EDI Trading Partner Agreement and shall comply with EDI Rules.

- c. Consultation and Testing. If SUBRECIPIENT reasonably believes that SUBRECIPIENT'S or COUNTY' data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, SUBRECIPIENT shall promptly consult COUNTY Program Manager. SUBRECIPIENT or COUNTY may initiate a request for testing of HIPAA transaction requirements, subject to available resources and COUNTY testing schedule.
 - d. Business Associate Requirements. SUBRECIPIENT and all subcontractors shall comply with the same requirements for Business Associates set forth in OAR 125-055-0100 through OAR 125-055-0130 as a contractor of a Business Associate.
7. **Resource Conservation and Recovery**. SUBRECIPIENT 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.
8. **Drug-Free Workplace**. SUBRECIPIENT shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) SUBRECIPIENT certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in SUBRECIPIENT's workplace or while providing services to DHS clients. SUBRECIPIENT's notice shall specify the actions that will be taken by SUBRECIPIENT against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, SUBRECIPIENT's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify DHS within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any subcontractor to comply with subparagraphs (i) through (vii) above; (ix) Neither SUBRECIPIENT, or any of SUBRECIPIENT's employees, officers, agents or subcontractors may provide any service required under this Agreement while under the influence of drugs. For

purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to DHS clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; (x) Violation of any provision of this subsection may result in termination of this Agreement.

9. **Pro-Children Act.** SUBRECIPIENT shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. section 6081 et. seq.).
10. **Medicaid Services.** SUBRECIPIENT 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. Section 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. Section 1396a(a)(27); 42 CFR 431.107(b)(1) & (2).
 - b. Comply with all disclosure requirements of 42 CFR 1002.3(a) and 42 CFR 455 Subpart (B).
 - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR 431.107(b)(4), and 42 CFR 489 subpart I.
 - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. SUBRECIPIENT shall acknowledge SUBRECIPIENT'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 Agreement) 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.** SUBRECIPIENT 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. Disclosure.

- a.** 42 CFR 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.** 42 CFR 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.
 - c.** As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider 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.
 - d.** SUBRECIPIENT shall make the disclosures required by this Section 14. To DHS. DHS reserves the right to take such action required by law, or where DHS has discretion, 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 Work 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. SUBRECIPIENT 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:

 - i.** The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and
 - ii.** Any rights of copyright to which a grantee, subgrantee or a SUBRECIPIENT 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, sub-grant or agreement under a grant or sub-grant.

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EXHIBIT 4

Subrecipient 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 SUBRECIPIENT and COUNTY, 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.
- 3. Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that SUBRECIPIENT 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. SUBRECIPIENT represents and warrants as follows:

 - i. Organization and Authority. SUBRECIPIENT is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. SUBRECIPIENT has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.
 - ii. Due Authorization. The making and performance by SUBRECIPIENT of this Agreement (a) have been duly authorized by all necessary action by

- SUBRECIPIENT 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 SUBRECIPIENT'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 SUBRECIPIENT is a party or by which SUBRECIPIENT 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.
- iii. 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.
 - iv. SUBRECIPIENT has the skill and knowledge possessed by well-informed members of its industry, trade or profession and SUBRECIPIENT 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 SUBRECIPIENT's industry, trade or profession;
 - v. SUBRECIPIENT shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
 - vi. SUBRECIPIENT prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.
- b. COUNTY represents and warrants as follows:
- i. Organization and Authority. COUNTY has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.
 - ii. 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 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, other than approval by the Department of Justice if required by law.
 - iii. 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.

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

5. Ownership of Intellectual Property.

- a. Definitions. As used in this Section 8 and elsewhere in this Agreement, the following terms have the meanings set forth below:
 - i. "SUBRECIPIENT Intellectual Property" means any intellectual property owned by SUBRECIPIENT and developed independently from the Work.
 - ii. "Third Party Intellectual Property" means any intellectual property owned by parties other than COUNTY or SUBRECIPIENT.
 - b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, COUNTY will not own the right, title and interest in any intellectual property created or delivered by SUBRECIPIENT or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that SUBRECIPIENT owns, SUBRECIPIENT grants to COUNTY 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 8.a.(ii) on COUNTY' behalf, and (3) sublicense to third parties the rights set forth in Section 8.a.(ii).
 - c. If state or federal law requires that COUNTY or SUBRECIPIENT grant to the United States a license to any intellectual property, or if state or federal law requires that COUNTY or the United States own the intellectual property, then SUBRECIPIENT shall execute such further documents and instruments as COUNTY may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or COUNTY. To the extent that COUNTY becomes the owner of any intellectual property created or delivered by SUBRECIPIENT in connection with the Work, COUNTY 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 SUBRECIPIENT to use, copy, distribute, display, build upon and improve the intellectual property.
 - d. SUBRECIPIENT shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as COUNTY may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.
- 6. Records Maintenance; Access.** SUBRECIPIENT shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, SUBRECIPIENT shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document SUBRECIPIENT's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT whether in

paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." SUBRECIPIENT acknowledges and agrees that COUNTY, Ride Connection, Oregon Department of Transportation, the Public Transit Division, TriMet, State Unit on Aging 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.

- 7. Records Retention.** SUBRECIPIENT 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. SUBRECIPIENT shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.
- 8. Information Privacy/Security/Access.** If the Work performed under this Agreement requires SUBRECIPIENT or its subcontractor(s) to have access to or use of any COUNTY computer system or other COUNTY Information Asset for which COUNTY imposes security requirements, and COUNTY grants SUBRECIPIENT or its subcontractor(s) access to such COUNTY Information Assets or Network and Information Systems, SUBRECIPIENT 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.
- 9. Assignment of Agreement, Successors in Interest.**

 - a.** SUBRECIPIENT shall not assign or transfer its interest in this Agreement without prior written approval of COUNTY. Any such assignment or transfer, if approved, is subject to such conditions and provisions as COUNTY may deem necessary. No approval by COUNTY of any assignment or transfer of interest shall be deemed to create any obligation of COUNTY 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.
- 10. No Third Party Beneficiaries.** COUNTY and SUBRECIPIENT are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that SUBRECIPIENT's performance under this Agreement is solely for the benefit of COUNTY to assist and enable COUNTY 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.
- 11. 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.

- 12. Major Disaster Declaration** number DR4499OR Agreement Provisions. COUNTY 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. COUNTY 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 Funding and the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act Funding, for the costs, and SUBRECIPIENT shall provide to COUNTY timely reports that provide enough detail to COUNTY’s reasonable satisfaction in order to obtain federal reimbursement.

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Exhibit 5 Reporting Requirements

1. INVOICES

SUBRECIPIENT shall submit invoices in a format designated or approved by COUNTY. Invoices are due by the 10th calendar day of the subsequent month. COUNTY shall make payment to SUBRECIPIENT within 21 days of receipt of each invoice submitted.

Invoices and reports on units of service provided shall bear SUBRECIPIENT's name and address and be signed by an authorized representative of SUBRECIPIENT. The authorized signer of the invoice shall verify that the services purchased have been performed.

SUBRECIPIENT shall submit the following invoices and reports:

- a. Financial summary including match and program income.
- b. Vehicle Maintenance Invoices for vehicle maintenance will be entered into Ride Connection database as outline in Exhibit 2 Section 3 and noted on monthly transportation reports submitted to County.
- c. Additional financial reports for the administration of this contract, as required by COUNTY.

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

SUBRECIPIENT shall return to COUNTY all funds which were expended in violation of this Agreement.

2. PROGRAM ACTIVITY REPORTS

SUBRECIPIENT shall submit monthly program activity reports presenting data comparing actual levels of service to the planned levels specified in Exhibit 6 Budget & Units of Service. These reports are due with the invoices. The format of these reports shall be designated or approved by COUNTY, and contain the following:

- a. SUBRECIPIENT shall submit nutrition reports monthly. These reports shall have:
 - i. the over and under age 60 meal program participation numbers broken out by: Congregate, HDM, Medicaid, volunteers, guests and staff.
 - ii. the amount of participant donations by Congregate and HDM .

- b. SUBRECIPIENT may bill Food Services for OAA funded HDM if they have been ordered by recipients then cancelled after 2:00 PM the day before delivery. SUBRECIPIENT may not bill for Meal Site Management for these meals.
- c. Monthly NAPIS/Oregon Access information for client registration and program service data including client identifiers for all new clients. Programs service data must be equal to or greater than units of service billed for.
- d. Transportation Report forms A, B, and C
- e. List of Medicaid waived services clients who were provided non-medical transportation during the billing period, with number of rides provided for each client by ride type.
- f. SUBRECIPIENT shall submit copies of the SPD Medicaid Home Delivered Meals vouchers on current State approved form.

3. AUDIT/MONITORING

SUBRECIPIENT shall permit authorized representatives of COUNTY and other applicable audit agencies of the state or federal government, to review the records of SUBRECIPIENT in order to satisfy program audit and evaluation purposes deemed necessary by COUNTY and permitted under law.

SUBRECIPIENT agrees to participate with COUNTY in any evaluation project or performance report, as designated by COUNTY or applicable state or federal SUBRECIPIENT, and to make available all information required by any such evaluation process.

COUNTY agrees to notify SUBRECIPIENT in writing of intent to conduct onsite evaluation of reported performance management data and SUBRECIPIENT agrees to provide COUNTY access to its facility and staff, all related programs and fiscal documents, SUBRECIPIENT'S reports and on any other related documentation to substantiate performance management reporting of data.

4. ADMINISTRATION

COUNTY Project Manager shall be the ADS Contract Specialist or any other person as shall be designated in writing by the Director of the Social Services Division. The Project Manager is authorized to approve invoices, make site inspections, and be COUNTY representative in matters related to this contract. SUBRECIPIENT shall designate one or more representatives in writing who shall be authorized to sign the invoices and accompanying activity reports.

Exhibit 6
Budget and Units of Service

1. BUDGET

COUNTY's payment to SUBRECIPIENT will be based on the provision of the units of service and according to the service elements and amounts specified in this Exhibit.

As required in Section 315(b)(3) of the Older Americans Act (OAA), no means testing for services eligibility will be conducted and per Section 315(b)(4)(A-D), all recipients of OAA services will be provided the opportunity to voluntarily contribute towards the cost of service. SUBRECIPIENT has appropriate safeguards in place to account for all contributions. Said contributions are hereby referred to as Program Income and shall be used by SUBRECIPIENT for the sole purpose of expanding services if the program income is equal to or less than the budgeted amount.

SUBRECIPIENT may not transfer funds in excess of 15% from one service category to another without written approval from COUNTY.

SUBRECIPIENT agrees to provide matching funds in accordance with Section 309(b)(1) and Section 373 (g)(2)(h)(2)(A-B) of the OAA for qualified expenditures with cash or in-kind resources of non-federal means as follows:

Match shall be figured at 10% of the total OAA Title III-B expenditures and at 25% of the total OAA Title III-E funds.

SUBRECIPIENT match funds must be from sources other than Federal funds, and SUBRECIPIENT will provide COUNTY with a statement of assurance stating this.

SUBRECIPIENT will invoice and receive direct reimbursement from the State of Oregon, Dept. of Human Services, Senior & People with Disabilities for Home Delivered Meals provided for authorized Medicaid clients at the state approved per meal rate.

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2. UNIT COST SCHEDULE

Milwaukie Center
Fiscal Year 2021-22

Federal Award Number	OAA IIB Funds	OAA IIC1 Funds	OAA IIC2 Funds	OAA IIC2 Funds	OAA IIC2 CARES Acct	OAA IIC2 Funds	OAA IID Funds	OAA IIE Funds	Required Match	NSIP Funds	Other State Funds	Ride Connection		MEDICAD Funds	LHEAP Funds	Program Income	NO. OF UNITS	TOTAL COST	REIMBURSE- MENT RATE		
												In Dist	STF							TriMet	STF Funds
CFDA Number	16AORT3SS	16AORT3CM	16AORT3HD	16AORT3PH	16AORT3FC	16AORT3PH	16AORT3PH	16AORT3FC	N/A	16AORT3FC	16AORT3FC	16AORT3FC	16AORT3FC	16AORT3FC	16AORT3FC	16AORT3FC	16AORT3FC	16AORT3FC	16AORT3FC	16AORT3FC	
Service Category	(1)	(2)	(3)	(4)	(4)	(5)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)
Case Management (Hrs)	27,088								3,013									728	30,111	\$37.24	
Reassurance (Contacts)	5,651								628									185	6,279	\$30.56	
Information & Assist.	11,829								1,315									648	13,144	\$16.25	
Public Outreach	1,000								111									20	1,111	\$50.00	
Transportation - OAA	7,799								867								1,500	10,166	\$5.00		
OAA HDM Assessment					7,448				0								200	7,448	\$37.24		
OAA/NSIP Foot Service		31,004	79,349		27,673				12,271	38,805							59,700	189,103	\$2.96		
OAA Meal Site Mngt.		20,319	52,002		18,136				8,042								57,312	155,810	\$1.52		
Site Purchased Meals-Restaurant					3,750				0								910	3,750	\$4.12		
CSBG HDM Service-Houseless									0								800	0	\$0.00		
Evidence Based Health & Wellness Programs							480		0								8.0	480	\$60.00		
Caregiver Respite Program								9,228	2,307								160	11,535	\$57.50		
Transportation - T19									0					654	1,471		125	2,125	\$17.00		
Transportation Ride Con									0								3,986	36,540	\$7.50		
STF Transport - Vanibus									0				32,554				1,943	35,942	\$18.50		
Ride Con - Vehicle Maint									944				8,250				N/A	9,194	N/A		
LHEAP Intakes									0								150	3,750	\$25.00		
TOTALS	\$53,377	\$51,323	\$131,351	\$57,007	\$490	\$9,228	\$38,805	\$0	\$32,554	\$35,942	\$8,250	\$654	\$1,471	\$3,750	\$62,798	\$516,490					

CFDA Number 20.513 & Federal Award Number applies to Ride Connection Vehicle Maintenance funds only

Source of OAA Match - Staff time

Contract Amount: **\$424,192**

Federal Award Total: **\$349,821**

3. UNITS OF SERVICE

SUBRECIPIENT or COUNTY may request substantive changes in the program activities as described in "Exhibit 1". Such changes must be mutually agreed upon by and between SUBRECIPIENT and COUNTY and incorporated in a written amendment to this contract. Such amendment shall not become effective until signed by both SUBRECIPIENT and COUNTY.

Client Service Objectives:

Service Category	Planned Number of Service Units	Unit of Measurement	Number of Unduplicated Clients to be Served
Case Management (OAA)	728 hrs.	1 hour of service	225
Reassurance (OAA)	185	1 Client Contact	45
Information and Assistance (OAA)	648	1 response to inquiry and follow up	475
Public Outreach/Education	20	1 presentation	NA
Transportation (OAA)	1,560	1 one-way ride	200
Food Service (OAA)	59,700	1 meal delivered/served	175
Meal Site Management (OAA)	59,700	1 meal delivered/served	175
OAA HDM Assessments	200	1 Assessment Completed	150
Evidence-based Health & Wellness	8	1 class session	10
Respite Program	160 hrs.	1 hour of services	20
Transportation (Medicaid non-medical)	125	1 one-way ride	10
Transportation (Ride Connection)	4,341	1 one-way ride	200
Transportation (STF)	1,943	1 one-way ride	100
LIEAP Applications	150	1 Completed Application	150

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EXHIBIT 7
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 subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of ANY Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any subrecipient, 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 sub-awards at all tiers (including subcontracts, sub-grants, 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.]

SUBRECIPIENT, **CITY OF OREGON CITY-PIONEER COMMUNITY CENTER**, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: _____

Company Name: **NCPRD – Milwaukie Center** _____

Signature: _____

Name: _____

Title: _____

EXHIBIT 8
CENTER RESPONSE FROM PREVIOUS SOLICITATION

A. Describe your grievance procedure for clients and how County will fit into the process:

These procedures would be applicable to County clients, and County is included as Contracting Agency.

MILWAUKIE CENTER
PROCEDURES FOR HANDLING COMPLAINTS

WHO CAN USE THIS PROCEDURE

Any persons who have been denied a Center service or been told they are ineligible for a service, or who have a complaint about how a service is provided may use this complaint/ appeal procedure. The complaint must be made by a complainant who has firsthand knowledge; it cannot be something you have only heard about. Employees who have a complaint about a matter which may affect their employment adversely must use the County's Grievance Procedure established in its Personnel Policies.

BEFORE YOU MAKE A COMPLAINT OR APPEAL

It is important that you try to solve a problem informally with the people directly involved. Talk over your complaint with them first. If the problem is still not resolved, speak to the Center Director. If the issue relates to Center programs, policies or procedures, the Center Director may request that the Center/Community Advisory Board make a recommendation on the matter. Any decisions must be in accordance with Center policies and procedures, North Clackamas Parks and Recreation District policies and, in the case of contracted services, in accordance with established policies and procedures of the contracting agency. You may go ahead with the procedure described below if the problem isn't solved informally.

WHERE TO TAKE YOUR COMPLAINT

If the problem is not resolved after speaking to the Center Director, you may take your complaint to the District Director. Your complaint can be in writing or in person (see address and phone below).

North Clackamas Parks and Recreation District Director
150 Beaver Creek Rd.
Oregon City, OR 97045

HOW THE COMPLAINT WILL PROCEED

When you make a formal complaint with the District Director, a file with your name on it will be started. The file will contain a description of your complaint, what you want to do about it and a report on any action taken to solve the problem. The District Director will discuss the complaint with you to try to solve the problem. Within 30 working days of the discussion, you will be notified of what action is being taken.

If you are still not satisfied with actions taken, you may re-address your complaint to the District Director. Within thirty (30) days of receipt of your letter the District Director will meet with you and the Milwaukie Center Director to discuss the problem. The District Director will send you a written decision within ten (10) working days. The decision is final as to whether actions taken were justified and whether circumstances warrant policy review by the Center/ Community Advisory Board and/or the North Clackamas Parks and Recreation District Advisory Board.

- B. Describe your organization's procedure for prioritizing services for the target population of frail, low income, minority and rural residents age 60 and older:

Prioritization of services is based on need. The first priority for services are those that "help enable older people to remain as independent and self-sufficient as possible for as long as possible" -- services for the "at-risk" population - those that are minority, socially isolated and low income.

The staff periodically reviews existing services to evaluate, determine changes in emphasis, staffing needs, opportunities for assistance from other agencies, etc.

If other than minor changes are seen to be needed, the Center Community Advisory Board is consulted.

- C. Describe your Agency's operating procedures (use space provided only):

- Hours of Operation: From 8:30 a.m. To 5:00 p.m. (for social services)
Total hours per day: 8.5 hrs.
Total hours per week: 42.5 hrs.

- Official Closures:

New Year's Day, January 1st
Martin Luther King Day, third Monday in January
President's Day, third Monday in February
Memorial Day, last Monday in May
Independence Day, Fourth of July
Labor Day, first Monday in September
Veterans' Day, November 11
Thanksgiving, fourth Thursday in November
Christmas, December 25

D. Describe the boundaries of the area for which you propose to provide services.

North Clackamas Parks and Recreation District Boundaries:

- West to the Willamette River
- East to Urban Growth Boundary, excluding Incorporated City of Happy Valley
- North to Multnomah County Line
- South to Clackamas River, excluding Johnson City and Gladstone

E. Show an organizational chart which identifies staff positions within the contracted program. Identify in the chart the number of FTE staff for each position, paid or volunteer.

<u>Center Operations</u>		<u>Nutrition Program</u>		<u>Transportation Program</u>	
Center Supervisor	1 FTE	Program Coord.	1.00 FTE	Program Coord.	.15 FTE
Human Svc Coord.	1 FTE	Cooks	1.25 FTE	Bus Drivers	1.50 FTE
Client Svc Coord.	.45 FTE	CI Svc Coord.	.40 FTE		
Facility Use Coord.	1 FTE	MOW Prog. Aide	.48 FTE		
Receptionist	1 FTE				
Building Coord.	.40 FTE				
Facility Mainten.	1 FTE				
Client Svcs Asst.	1 FTE				

F. Describe your methods for providing information about services.

Information about services is provided in several ways. A monthly newsletter is mailed to 5,500 homes (95% of which are in our service area or an adjoining zip code area). Another 600 plus are distributed in and through the Center. A brochure about ongoing services is distributed by staff in the Center and in public places. In the daily paper we publicize special services of interest to seniors. The Center has a Facebook page and a web site for people to access information about programs and services. North Clackamas Parks and Recreation District distributes 35,000 Program Guides three times a year which publicizes Milwaukie Center programs and services.

G. Briefly, describe your methods for providing legal services.

We have a working arrangement with several local attorneys who volunteer three (3) hours a month on a rotating basis. Seniors needing an attorney contact the Center. The Human Services Coordinator talks with each client to assess their needs. If appropriate, their name is put on a list. When there are enough (8-9), a lawyer is scheduled. Appointments are made. Some clients cannot wait until the next scheduled clinic. They are referred to other appropriate resources or given the names of several of our volunteer attorneys to contact on a private basis.

F. Guidelines for Inclusion in Clackamas County Senior Center Activities

Clackamas County Senior Centers provide a variety of program and services for adults who are able to participate independently and without special assistance or supervision.

Those who use the Center must be:

1. Mobile or if of limited mobility, able to use walker, cane, wheelchair or other device completely unassisted.
2. Continent, or wear appropriate protective undergarments and not need assistance with bathroom concerns.
3. Physically able to care for personal needs and be able to take part in activities selected without special assistance.
4. Mentally able to make responsible decisions regarding participation.
5. Able to behave in an appropriate manner so not to disrupt or require supervision.
6. Able to remove self from danger without assistance.
7. Or, if unable to meet the above criteria, accompanied by a caregiver provided by the family or facility where the individual lives, to assist as necessary to comply with guidelines.

If an individual lives in a care facility it is the responsibility of the facility to:

1. Determine if it is appropriate for their resident to take part in Center activities.
2. Make advance arrangements for such participation with the Center Director or appropriate designee.
3. Communicate the information contained in these guidelines to their employees, residents and/or residents' guardians and others involved in residents' care who should be aware of these guidelines.

Transportation

Some Centers provide transportation to and from the Centers and to grocery shopping. Rides are subject to available space and priority is given to isolated individuals without access to transportation. Individuals using Center transportation must be able to:

1. Meet the guidelines listed above.
2. Be physically able to use the transportation available.
3. Be mentally able to follow procedures, e.g., regarding arrival and departure, seat belt use, etc.

If an individual is being transported from a care facility by a Center bus, the facility must make arrangements in advance for that individual's transportation and is responsible to reimburse the Center for the bus fare.

Under no circumstances is the Center responsible for individuals who call and request a ride without the facility's knowledge and for whom a ride is given. The Center is not responsible for individuals who once arrive at the Center, leave the Center, make other arrangements to return home or request to be returned to a location other than the original pick up address.

Nutrition

Individuals who wish to participate in the Center's nutrition program must meet the guidelines listed above. If an individual is from a care facility, the facility must make arrangements in advance for that individual's participation in the nutrition program and is responsible to reimburse the Center for the meal cost.

Emergency Care

It is imperative that a care facility's staff provide contact information prior to one of their residents coming to the Center. It is imperative that a care facility's staff be accessible by phone for the period of time when their resident is taking part in Center activities. In the event that an individual who lives in a care facility becomes ill or incontinent while at the Center, the Center staff will call the facility. It is the facility's responsibility to provide transportation for the individual from the Center back to the facility. In the event of a serious illness or injury, the Center's staff will call "911" for emergency assistance. The facility will be notified by the Center's staff in order for the facility to provide follow-up instructions for care of their resident.

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FACILITIES MANAGEMENT

CENTRAL UTILITY PLANT

1710 Red Soils Court, Suite 200 \ Oregon City, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of Goods and Services Contract with Johnson Controls, Inc.
for the Brooks Building BAS System Replacement Project**

Purpose/ Outcomes	Execution of a contract between Facilities Management, and Johnson Controls, Inc., for the procurement & installation of a BAS system to replace the obsolete one in the Brooks Building.
Dollar Amount and Fiscal Impact	Total contract value is \$295,457.00
Funding Source	CLCK-420-15-1505-150505-48120
Duration	Substantial Completion: September 30, 2021 Final Completion: October 31, 2021
Previous Board Action	Not previously heard.
Strategic Plan Alignment	1. Build (Maintain) a Strong Infrastructure 2. Ensure Safe, Healthy and Secure Communities
Counsel Review	AN July 14, 2021
Procurement Review	1. Was the item processed through Procurement? yes <input checked="" type="checkbox"/> no <input type="checkbox"/>
Contact Person	Paul Landaas, Facilities Management, Building Systems Supervisor – 503-557-6420

BACKGROUND:

Facilities Management is tasked with providing safe, clean, well-functioning buildings for the use of our County staff and the public which it serves. The current BAS (Building Automation System) at the Brooks Building is over 20 years old. Parts, maintenance & support of the existing Trane Traser Summit BAS has become obsolete and problematic. Clackamas County solicited a bid from qualified contractor Johnson Controls for the installation of the Metasys 'M' Series BAS system that is our County standard. This standard has been in effect since 2004 when the Public Services Building was constructed and occupied. Johnson Controls is the only source for the system that is the domain for the County's BAS system. It is currently in 18 of our buildings with two more scheduled this year. Pricing for this bid is in accordance with the cooperative Sourcewell Agreement Contract #030817-JHN.

This contract will be for the procurement & installation of the equipment needed to replace the BAS system that is currently in the Brooks Building. This contract will cover required bonds and permits, the removal and disposal of existing equipment, and all incidentals needed or required to deliver a complete, operating system.

PROCUREMENT PROCESS:

This process was started on April 7, 2021 with Paul Landaas, Facilities Management Building Systems Supervisor, by sending a preliminary scope of work to Johnson Controls for the purpose of obtaining a bid for the replacement of the BAS system at the Brooks Building. A walkthrough was scheduled with Johnson Controls for April 9, 2021 at which time the scope was finalized and the revised scope sent to Johnson Controls on April 13, 2021. Johnson Controls bid was received on April 27, 2021. Paul Landaas then put together the PacsRequest package and submitted it to Procurement on April 30, 2021. Procurement posted the Notice of Intent to purchase on June 3, 2021, with a closing date of June 10, 2021. There was no objections.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners of Clackamas County approve and execute the Contract between Facilities Management and Johnson Controls, Inc., for the Brooks Building BAS Replacement Project.

Sincerely,

Elizabeth Comfort

Elizabeth Comfort,
Finance Director

Placed on the BCC Agenda _____ by Procurement and Contract Services






BCC Staff Report - Brooks Building BAS Replacement - 07-21-21

Final Audit Report

2021-07-21

Created:	2021-07-21
By:	Jennifer Johnson (JJohnson@clackamas.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAvjGndIVDTirtpNegKXIIIgF1VT7_i-

"BCC Staff Report - Brooks Building BAS Replacement - 07-21-21" History

-  Document created by Jennifer Johnson (JJohnson@clackamas.us)
2021-07-21 - 3:19:44 PM GMT- IP address: 73.25.146.220
-  Document emailed to Elizabeth Comfort (ecomfort@clackamas.us) for signature
2021-07-21 - 3:20:05 PM GMT
-  Email viewed by Elizabeth Comfort (ecomfort@clackamas.us)
2021-07-21 - 5:00:04 PM GMT- IP address: 73.11.77.31
-  Document e-signed by Elizabeth Comfort (ecomfort@clackamas.us)
Signature Date: 2021-07-21 - 5:00:45 PM GMT - Time Source: server- IP address: 73.11.77.31
-  Agreement completed.
2021-07-21 - 5:00:45 PM GMT



**CLACKAMAS COUNTY
GOODS AND SERVICES CONTRACT
Contract #4212**

This Goods and Services Contract (this "Contract") is entered into between **Johnson Controls, Inc.**, ("Contractor"), and Clackamas County, a political subdivisions of the State of Oregon ("County") on behalf of Facilities Management for the purposes of providing retrofit of the Trane Trasar control system.

I. TERM

This Contract shall become effective upon signature of both parties and shall remain in effect until **October 31, 2021**. 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. It is the County's intention to purchase against the Sourcewell Contract #030817-JHN' for the services described in Exhibit A.

II. SCOPE OF WORK

This Contract covers the purchase and installation of the Trane Trasar control system ("Work"), as described in Scope of Work, attached and hereby incorporated by reference as Exhibit "A." 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 the Contractor's Proposal attached and hereby incorporated by reference as Exhibit "B." Work shall be performed in accordance with a schedule approved by the County. The Contractor shall meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services. The County's Representative for this contract is: Paul Landaas.

III. COMPENSATION

1. **PAYMENT.** The County agrees to compensate the Contractor on a time and material basis as detailed in this Contract. The total Contract compensation shall not exceed **Two Hundred Ninety-Five Thousand Four Hundred Fifty-Seven Dollars (\$295,457.00)**.
2. **TRAVEL EXPENSE REIMBURSEMENT.** Authorized: Yes No
If travel expense reimbursement is authorized in this Contract, such expenses shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference, in effect at the time of the expense is incurred.
3. **INVOICES.** 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 A) and will be paid net thirty (30) days from receipt of invoice and shall be subject to Oregon Revised Statute ("ORS") 293.462. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Invoices shall be submitted to the County Representative at: Facilitiesmangaement@clackamas.us

4. CONTRACTOR AND COUNTY CONTACTS.

Contractor	County
Administrator: Jessica Hines Phone: 971-420-3095 Email: Jessica.Hines@JCI.com	Administrator: Paul Landaas Phone: 503-742-2420 Email: PLandaas@clackamas.us

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.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County’s reasonable administrative discretion, to continue to make payments under this Contract.
- 3. CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
- 4. COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor’s surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor’s employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee’s wages to provide such services.

5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
7. **HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, 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 437, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County's request, Contractor shall immediately provide Safety Data Sheets for the products subject to this provision.
8. **INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and 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.
9. **INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to the 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; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656.
10. **INSURANCE.** Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon. Contractor shall provide insurance as indicated below:
 - A. **COMMERCIAL GENERAL LIABILITY**

The Contractor agrees to furnish the County evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of the County, its officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this Contract. The general aggregate shall apply separately to this project / location. The County, at its option, may require a complete copy of the above policy.

B. AUTOMOBILE LIABILITY

The Contractor agrees to furnish the County evidence of business automobile liability insurance with a combined single limit of not less than \$1,000,000 for bodily injury and property damage for the protection of the County, its officers, elected officials, agents, and employees against liability for damages because of bodily injury, death or damage to property, including loss of use thereof in any way related to this Contract. The County, at its option, may require a complete copy of the above policy.

C. Contractor shall provide County a certificate of insurance naming the Clackamas County and its officers, elected officials, agents, and employees as an additional insured. If Contractor's insurance policy does not include a blanket endorsement for additional insured status when/where required by written contract (as required in this Contract), the insurance, shall include Clackamas County and its officers, elected officials, agents, and employees as expressly scheduled additional insured. Use CG 20 10 or its equivalent. Such insurance shall provide sixty (60) days written notice to the County in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

D. If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor agrees to qualify and remain qualified for the term of this Contract as an insured employer under ORS 656. The Contractor shall maintain employer's liability insurance with limits of \$100,000 for each accident, \$100,000 per disease for each employee, and \$500,000 each minimum policy limit.

E. If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of thirty-six (36) months or the maximum time period the Contractor's insurer will provide "tail" coverage as subscribed, whichever is greater, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided it's retroactive date is on or before the effective date of this Contract.

F. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice by the Contractor to the County. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

G. Contractor shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the Contractor under this Contract, unless this requirement is expressly modified or waived by the County.

11. LIMITATION OF LIABILITIES. Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed

inoperative to that extent.

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

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

- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

- 14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (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 highest professional standards; 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.

- a. Performance Warranty. Contractor warrants that the goods provided to the County shall consistently perform according to the performance characteristics described in the Scope of Work.
- b. Service Warranty. Contractor warrants that the services provided herein to the County, if any, will be performed in a workmanlike manner and in accordance with the highest professional standards. Contractor's liability and County's remedy under this services warranty are limited to

Contractor's prompt correction of such services, provided that written notice of such alleged defective services shall have been given by the County to Contractor. The County agrees to provide Contractor reasonable access to the goods for purposes of repair or replacement under this services warranty. Failure of Contractor to promptly correct problems pursuant to this Service Warrant shall be deemed a material breach of this Contract.

- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections of Section IV: 1, 6, 8, 11, 13, 14, 15, 16, 18, 21, 22, 23, 27, 31 and all other terms and conditions which by their context are intended to survive termination of this Contract.
- 16. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this section and Sections 1, 8, 13, 14, 15, and 26 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 19. TAX COMPLIANCE CERTIFICATION.** Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state

that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

- 20. TERMINATION.** This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the work under this Contract is prohibited or the County are prohibited from paying for such work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.
- 21. REMEDIES.** (A) In the event of termination pursuant to Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the work multiplied by the percentage of work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research or objects or other tangible things needed to complete the work.
- 22. 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.
- 23. 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.
- 24. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence under this Contract.

- 25. 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.
- 26. 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.
- 27. 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.
- 28. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract: (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished. (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. (C) The Contractor shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126. 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 material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default. (D) The Contractor shall promptly, as due, make payment to any person or copartnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.
- 29. DELIVERY.** All deliveries shall be F.O.B. destination with all transportation and handing charges paid by the Contractor, unless specified otherwise in this Contract. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance, when responsibility shall pass to the County except as to latent defects, fraud and Contractor's warranty obligations.
- 30. 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.

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

Johnson Controls, Inc.
4011 SE International Way STE #605
Milwaukie, Oregon 97222

Clackamas County Board of County
Commissioners

Rick Viaene 7/7/2021
Authorized Signature Date

Chair Date

Rick Viaene / Installation Manager
Name / Title (Printed)

Recording Secretary

000864-21
Oregon Business Registry #

APPROVED AS TO FORM

FBC/Wisconsin
Entity Type / State of Formation

[Signature] 07/14/2021
County Counsel Date

EXHIBIT A – SCOPE OF WORK

Contractor shall provide and install an “M” series JCI DDC system to replace the Trane Trasar controls to be changed to the Johnson Controls Series ‘M’ control system in the building: located at 9101 SE Sunnybrook Blvd. Clackamas, OR 97015. This system will be a part of the already well established Johnson Controls DDC domain that is County standard. Bid will fall under the cooperative agreement ‘Sourcewell Contract #030817-JHN’. Designed for the machinery and equipment environments for County.

The Contractor shall supply all materials to complete their portion of the project in compliance with all local codes and regulations according to detailed requirements specified below. This is a mechanical project, and must follow the specified criteria in the job scope, or, needed and as directed by the County.

This contract and job scope is for the complete turnkey retrofit of the Trane Trasar control system to be changed to the Johnson Controls Series ‘M’ control system.

GENERAL REQUIREMENTS

1. The Contractor shall furnish the County with an industry standard written warranty for the equipment.
2. The Contractor shall also provide related operation manuals if any pertain, and system operational training to designated County staff.
3. It is understood that work to be performed by the Contractor is based upon the specified structure in the existing location and condition and that County assumes no responsibility and makes no guarantee or representation as to the condition thereof subsequent to the execution of the contract.
4. Work days are generally Monday through Friday. Work hours are 7:00am to 5:00 pm.
5. County will provide potable water access and 120v power supply for Subcontractor’s operations. Any additional requirements or needs of the Contractor shall be included in the bid proposal.

DETAILED REQUIREMENTS

CONTRACTOR:

1. The Contractor is responsible for supplying and installing the Johnson Controls Series ‘M’ BAS control system into the Brooks Building.
 - Parts (i.e VMA, FEC, NAE...etc)
 - Materials (i.e. Wiring, Fasteners...etc.)
 - Permits (i.e. Electrical...etc)
 - Labor (i.e. Man Hours...etc)
2. The Contractor is responsible for supplying and installing all qualified and required JCI “M” series components
3. The Contractor will provide the components needed for the following:
 - (a) 4ea 40-ton JCI JV40 packaged air handlers with VFD’s.

- (b) 1ea Greenheck energy recovery ventilator – ERV-581H-15-B
 - (c) 1ea Trane 15-ton air handler - TWE180B400CA
 - (d) 1ea Trane 15-ton heat pump – TWA180B400BD
 - (e) 2ea Liebert Challenger air handlers - BU067ASAME1790A
 - (f) 2ea Liebert Challenger condensing units – TCSV104
 - (g) 1ea Carrier packaged RTU cooling only – 48KCEA06A2A6A0A0A0
 - (h) 2ea Trane Split-system fan coils – 4TEC3F
 - (i) 2ea Trane Split-system condensing units – 4TWA30
 - (j) 1ea Carrier Split-system fan coil – FB4CNP
 - (k) 1ea Carrier Split-system condensing unit – 25HCE4
 - (l) 35ea Varitrane fan terminal units w/reheat – VPPEE
 - (m) 28ea Varitrane terminal units w/reheat – VCEE
 - (n) 7ea Various exhaust fans – Carnes & Greenheck
 - (o) 1ea Trane water source heat pump – Trane Axiom
4. The Contractor is responsible to follow Clackamas County Facilities Management (“CCFM”) current HVAC scheduling with the “M” series domain for all its inputs and outputs.
 5. The Contractor is responsible for all programming and graphics.
 6. The Contractor is responsible for connecting the Brooks Building’s new JCI-DDC system onto the County’s established “M” series domain.
 7. The Contractor is responsible for utilizing current power sources, and providing all low voltage needs for the new system; installing, and terminating all connections.
 8. The Contractor is responsible for a complete air-balance of the air handler systems in the building.
 9. The Contractor is responsible for providing and installing the required number of room sensors, CO2 sensors, FTU & TU discharge air sensors, occupancy sensors, motor status sensors & etc.
 10. The Contractor is responsible for providing, and installing all software updates; (if applicable at time of installation), or, when available, and technical support.
 11. The Contractor is responsible for hauling away and removing all construction debris from working areas, including leaving a clean work site.
 12. NOTE: The Contractor is to turn over the old Trasar components to the CCFM/HVAC department.

This purchase is authorized using the Sourcewell HVAC Systems, Installation, and Service with Related Products and Supplies Contract #030817-JHN.

Work is further described in Contractor’s Quote dated 4/27/21, attached and incorporated by reference as **Exhibit B**.

EXHIBIT B
CONTRACTOR'S PROPOSAL



Proposal

Date: 04/27/2021

4011 SE International Way, Suite 605
Milwaukie, Oregon 97222

To: Clackamas County
Paul Landaas

From: Jessica Hines
Account Executive
Jessica.Hines@jci.com

Project: Clackamas Co Brooks Bldg DDC

Scope of Work

Pricing is in accordance with the Sourcewell Agreement and any and all purchase orders must indicate the intent of using the **Sourcewell Contract #030817-JHN**.

Johnson Controls is pleased to provide the following scope of work and pricing for Clackamas Co Brooks Bldg DDC based on the scope of work prepared by Paul Landaas and sent to Johnson Controls on April 13th 2021.

SYSTEMS

- (a) 4ea 40-ton JCI JV40 packaged air handlers with VFD's.
- (b) 1ea Greenheck energy recovery ventilator – ERV-581H-15-B
- (c) 1ea Trane 15-ton air handler - TWE180B400CA
- (d) 1ea Trane 15-ton heat pump – TWA180B400BD
- (e) 2ea Liebert Challenger air handlers - BU067ASAME1790A
- (f) 2ea Liebert Challenger condensing units – TCSV104
- (g) 1ea Carrier packaged RTU cooling only – 48KCEA06A2A6A0A0A0
- (h) 2ea Trane Split-system fan coils – 4TEC3F
- (i) 2ea Trane Split-system condensing units – 4TWA30
- (j) 1ea Carrier Split-system fan coil – FB4CNP
- (k) 1ea Carrier Split-system condensing unit – 25HCE4
- (l) 35ea Varitrane fan terminal units w/reheat – VPEE
- (m) 28ea Varitrane terminal units w/reheat – VCEE
- (n) 6ea Various exhaust fans – Carnes & Greenheck
- (o) 1ea Trane water source heat pump – Trane Axiom

-
- Furnish and install DDC controls for all systems listed above:
 - 1. Furnish and install Johnson Controls DDC controllers and enclosures as needed to meet sequence of operations and points list described in the plans and specifications.
 - Enclosures to be standard NEMA 1 rating
 - Includes BACnet over MS/TP wiring to the Johnson Controls SNE2200 engine
 - 2. Includes furnishing and installation of the following devices required to meet sequence of operations and points list described in the plans and specifications:
 - a. Provide and install the required number of room sensors, CO2 sensors, FTU & TU discharge air

- sensors, occupancy sensors, motor status sensors & etc
3. Includes replacing Trane Varitrane Terminal Unit damper boxes and upgrading DDC to Johnson Controls CGM controller
 4. Firmware upgrade and IS-UNITY-DP network communications card installation for two (2) Liebert Challenger model BU067A units
 5. Includes all programming and graphics
 6. Connecting the Brooks Building's new JCI-DDC system onto the county's established "M" series domain.
 7. Perform complete air balancing of the AHU system
 - a. Exclude TAB reporting
 8. Provide and install all software updates; (if applicable at time of installation), or when available, and technical support.
 9. Haul away and remove all construction debris from working areas, leaving a clean work site.
 10. Turn over the old Tracer components to the CCFM/HVAC department.

ADD ALTERNATE

Upgrade all applicable Clackamas County locations currently on Metasys from SMP to MUI (Metasys User Interface)

With the assistance of Clackamas we will create a complete user interface that ties all of the spaces/rooms to the associated HVAC equipment and set up user accounts for each location to allow the local staff to help manage alarms and scheduling for their building. This will link the current graphics from SMP into MUI allowing previous graphics to be accessed through Mac or Windows PC's and mobile devices.

-Labor to create space tree configuration

-Labor to create equipment definitions for the equipment that serves the spaces

-Labor for discovering equipment that belongs to the equipment definitions

-Labor for defining space & equipment relationship

-Labor to map existing graphics into the new Metasys User Interface(MUI)

Note: Metasys User Interface will be done as per the information available in SCT database. Also, Clackamas to provide information on spaces and equipment relationship to complete the upgrade.

Training

1. On-Site Customer Training
 1. Includes 24 hours of on-site customer training delivered as Customer requests.

Exclusions & Clarifications (applies to all sections)

1. Pricing assumes normal working hours, Mon-Fri, 7am to 4pm. Excludes all off-hours work.
2. Excludes furnishing and/or installation of the following **unless noted otherwise in this proposal**
 - a. Fire Smoke Dampers (FSD), Smoke Control Dampers (SCDs) Fire/Smoke Detectors or associated power and control wiring
 - b. Control Dampers
 - c. Starters, Disconnects or Variable Speed Drives
 - d. Line-Voltage Thermostats, Thermal Switches or Pushbutton Switches
 - e. Lighting Integration or Lighting Controls
 - f. Line voltage power
 - g. Mechanical Equipment
 - h. Access Doors
 - i. Thermometers, Thermowells or Pressure Gauges
 - j. Control Valves
 - k. Airflow Measuring Stations
 - l. Metering Devices
 - m. Valves
 - n. Actuators
3. Excludes all 120v power to controllers, transformers or any other applicable devices.
4. Excludes any demolition work unless noted otherwise in this proposal.
5. Low voltage cabling will be installed using plenum rated cables without conduit in concealed, accessible locations. Where exposed or subject to damage, EMT conduit will be used. This applies to all control work.
6. Excludes any work or services associated or connected with the identification, abatement, cleanup, control, removal or disposal of hazardous materials or substances, including but not limited to asbestos or PCBs.
7. Start-up and/or verification of factory-installed controls to be provided by others.
8. Excludes Mineral Insulated Cable or work associated with the installation, procurement or wiring of said cable.
9. Excludes Maintenance or troubleshooting not associated with the scope of work described above.
10. Excludes Air or Water test & balancing
11. Work associated with occupancy/motion detector(s)
12. Excludes 3rd Party Commissioning or commissioning assistance unless noted otherwise in this proposal.
13. Excludes liquidated damages.
14. All invoices are net thirty (30) days.
15. **Excludes any and all items not specifically mentioned in the document above.**

PRICE SUMMARY

Project Description	Price
Brooks Bldg DDC Retrofit	Grand Total \$266,375
Add Alternate : Metasys User Interface	\$29,082

Signatures

This proposal is hereby accepted, and Johnson Controls is authorized to proceed with the work, subject however, to credit approval by Johnson Controls.

This proposal is Valid for
30 Calendar days

Signature

Rick Viaene

Signature

Rick Viaene Installation Manager

Company:

Name: Clackamas County

PO #:

Date: 04/23/2021

Name: Jessica Hines

Title: Account Executive

Draft

Approval of Previous Business Meeting

Minutes:

July 22, 2021

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

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

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

Thursday, July 22, 2021 – 10:00 AM

Virtual Meeting via Zoom and in Person

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

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

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

A. Health, Housing & Human Services

1. Approval of Amendment #01 to a Subrecipient Agreement with The Mental Health & Addictions Association of Oregon for Older Adult Peer Support Services. Amendment adds \$19,498.88 for a maximum grant value of \$175,489.91. Funded through Federal pass through and State of Oregon, Mental Health Program. No County General Funds are involved. – BH
2. Approval of Amendment #01 to a Subrecipient Agreement with The Mental Health & Addiction Association of Oregon for Alcohol and Drug Recovery Peer Delivered Services. Amendment will add \$87,976.43 for a maximum grant valued of \$791,797.79. Funded through Federal pass through and State of Oregon, Mental Health Program. No County General Funds are involved. – BH
3. Approval of the Subrecipient Agreement with the Clackamas County Children's Commission for the Help Me Grow Program. Maximum contract value is \$72,000 funded through Health Share of Oregon Grant. No County General Funds are involved. – PH
4. Approval of Agreement with Oregon Department of Transportation, Rail & Public Transit Division, for FTA 5311 Rural Transportation Funds for Operations Funding for Mt. Hood Express. Maximum agreement of \$636,999 through Special Transportation Funds and \$9,500 County General Funds. – SS
5. Approval to Apply for a Grant from Oregon Department of Education Youth Development Division for Youth and Community to Fund PreventNet Community School Sites in Clackamas County. Total of \$1,000,000 (\$50,000 per PreventNet Site, per year for two years). Funded through the Oregon Department of Education, Youth Development Division. No County General Funds are involved. – CFCC
6. Approval of Interagency Subrecipient Agreement with Foothills Community Church/Molalla Adult Community Center to Provide Social Services for Clackamas County Residents. Maximum agreement is \$177,884, funded through the Older American Act, Ride Connection pass-through and Low Income Home Energy Assistance Program. No County General Funds are involved. – SS
7. Approval of Agreement with Oregon Department of Transportation, Rail and Public Transit Division, for 5310 Enhanced Mobility Funds for Preventative Maintenance, and Operations Funding for Mt. Hood Express, Transportation Reaching People and Transportation Services to Boring. Maximum agreement is \$215,111, funded through the Federal Transit Administration 5310 Elderly Disabled Transportation Grant. No County General Funds are involved. – SS
8. Approval of a Local Subrecipient Grant Agreement Amendment #4 with Lifeworks Northwest to Provide Relief Nursery Services in Clackamas County. Amendment adds

\$72,000 for a maximum value of \$290,260 and extends the end date to June 30, 2022. Funded through County General Funds. – CFCC

9. Approval of Interagency Subrecipient Agreement with Hoodland Senior Center to Provide Social Services for Clackamas County Residents. Maximum agreement is \$82,728, funded through the Older American Act Ride Connection pass-through and Low Income Home Energy Assistance Program. No County General Funds are involved. – SS
10. Approval of Interagency Subrecipient Agreement with Friends of Canby Adult Center to Provide Social Services for Clackamas County Residents. Maximum agreement is \$236,735, funded through the Older American Act Ride Connection pass-through and Low Income Home Energy Assistance Program. No County General Funds are involved. – SS
11. Approval of interagency Subrecipient Agreement with City of Sandy/Sandy Senior & Community Center to Provide Social Services for Clackamas County Residents. Maximum agreement is \$194,706, funded through the Older American Act Ride Connection pass-through and Low Income Home Energy Assistance Program. No County General Funds are involved. – SS
12. Approval of a Local Subrecipient Grant Amendment #2 with Immigration & Refugee Community Organizations (IRCO) to Provide Kindergarten Readiness Partnership & Innovation Summer Extension Services. Amendment adds \$12,527 for a maximum value of \$47, 527 and extends the end date to September 30, 2021. Funded through the State of Oregon, Department of Education through its Early Learning Division. No County General Funds are involved. – CFCC
13. Approval of a Contract with Alpha Energy Savers, Inc. for the Weatherization Major Measure Contractors. Total contract value is \$1,050,000, funded through Oregon Housing and Community Services. No County General Funds are involved. – CFCC
14. Approval of a Contract with Electech Lighting and Electric for the Weatherization Specialty Contractors. Total contract value is \$900,000, funded through Oregon Housing and Community Services. No County General Funds are involved. – CFCC
15. Approval of a Contract with Energy Comfort Construction for the Weatherization Major Measure and Specialty Contractors. Total contract value is \$1,950,000 through Oregon Housing and Community Services. No County General Funds are involved. – CFCC
16. Approval of a Contract with Four Seasons Heating and Air Conditioning for the Weatherization Specialty Contractors. Total contract value is \$900,000 through Oregon Housing and Community Services. No County General Funds are involved. – CFCC
17. Approval of Contract with Good Energy Retrofit for the Weatherization Major Measure Contractors. Total contract value is \$1,050,000 through Oregon Housing and Community Services. No County General Funds are involved. – CFCC
18. Approval of Contract with Green Energy Solutions for the Weatherization Major Measure Contractors. Total contract value is \$1,050,000 through Oregon Housing and Community Services. No County General Funds are involved. – CFCC
19. Approval of a Contract with Richart Family, Inc. for the Weatherization Major Measure Contractors. Total contract is \$1,050,000 through Oregon Housing and Community Services. No County General Funds are involved. – CFCC

B. Department of Transportation and Development

1. Approval of a Contract with Eagle-Elsner, Inc. for the Arista Area Paving Package. Contract value is \$238,182.50, funded through the Community Road Fund. No County General Funds are involved.
2. Approval of a Contract with Pacific Landscape Services, Inc. for Landscape Services. Total Contract not to Exceed \$1,463,880, including \$450,000 for on-call Services. Funded through County Road Fund. No County General Funds are involved.

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – BCC

D. Business and Community Services

1. Approval of a Purchase from Structured Communications Systems, Inc. for Palo Alto Firewall Hardware, Software, and Maintenance. The purchase and three years of maintenance is \$262,762.84 through County General Funds.

E. County Counsel

1. Approval of an advance from Metro of \$3,000,000, with the option to request an additional \$2,000,000. Funding is to provide supportive housing services (SHS) to be repaid through the County's disbursement of imposed income taxes collected by Metro.

Read Consent Agenda

Commissioner Schrader: I move for approval of the content agenda.

Commissioner Shull: Second

Clerk called the Poll

Commissioner Fischer: Aye.

Commissioner Shull: Aye.

Commissioner Savas: Aye.

Commissioner Schrader: Aye

Chair Smith: Aye.–the motion carries 5-0

Announce the Board will recess as Board of County Commissioners and Re-convene as the North Clackamas Parks and Recreation District Board for the consent agenda

II. NORTH CLACKAMAS PARKS AND RECREATION DISTRICT CONSENT AGENDA

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

1. Approval of Subrecipient Grant Agreement 22-015 between North Clackamas Recreation District and Health, Housing and Human Services, Social Division. Agreement not to exceed \$424,192, funded through the Older American Act, Oregon Department of Human Services, State Unit on Aging, Federal Transportation Administration funds, through Ride Connection, Inc. and other funds. No County General Funds are involved.

Read Consent Agenda

Commissioner Savas: I move for approval of the content agenda.

Commissioner Fischer: Second

Clerk called the Poll

Commissioner Savas: Aye.

Commissioner Fischer: Aye.

Commissioner Shull: Aye.

Commissioner Schrader: Aye

Chair Smith: Aye.–the motion carries 5-0

Announce the Board will adjourn as the NCPRD Board and Re-convene as the Board of County Commissioners for the remainder of the meeting.

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

Opened Public Comment

General Public Comment in Person:

1. Yvonne Lazarus – Clackamas County – Rich Swift, Commissioner Shull, Politics
 2. Elvis Clark – Milwaukie – Metro Income Tax
 3. Les Poole – Gladstone – Public Comment, Wild Fires; County Business
 4. Desi Nicodemus – Milwaukie – city councilor and Milwaukie bay park moving forward
- ~Board Discussion~

5. Kathy Hyzy – Milwaukie – Milwaukie Bay Park Project Design Services delays

General Public Comment Zoom:

1. Cris Waller – Milwaukie – Responsibilities of Public Officials
 2. Michael Weber – Milwaukie – COVID
 3. Bill Wehr - Clackamas County – Public Policy
- ~Board Discussion~
4. Connie Lee – Lake Oswego - Cooperating with metro, Stafford;

Closed Public Comment

IV. COUNTY ADMINISTRATOR UPDATE<https://www.clackamas.us/meetings/bcc/business>

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

Commissioner Fischer changed her vote from aye to no for the “Approval of Metro Loan for Supportive Housing Services” issue that was discussed on July 20, 2021 during Administrator Issues.

~Board Discussion~

Adjourned 11:39 AM



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD | OREGON CITY, OR 97045

Stephen L. Madkour
 County Counsel

August 12, 2021

Board of County Commissioners
 Clackamas County

Members of the Board

Kathleen Rastetter
 Scott C. Ciecko
 Amanda Keller
 Nathan K. Boderman
 Shawn Lillegren
 Jeffrey D. Munns
 Andrew R. Naylor
 Andrew Narus
 Sarah Foreman
 Assistants

Approval of a Quitclaim Deed for property to Lee and Christie Englesby

Purpose/Outcomes	County Counsel requests that the Board approve this quitclaim deed to convey any potential interest the County may have in the property to Lee Englesby, a rightful heir of the property, and Christie Englesby.
Dollar Amount and Fiscal Impact	The Englesbys paid the delinquent real property taxes and interest on the property to the County in full in May, 2021.
Funding Source	N/A.
Duration	Effective upon signature by the Board any County interest in the property is conveyed to the Englesbys.
Strategic Plan Alignment	This conveyance supports the Board's Strategic Business Plan goals of building public trust through good government by enabling the rightful heirs to the property clear title to the property.
Previous Board Action	The Board reviewed this matter in Executive Session on July 27, 2021.
County Counsel Review	County Counsel worked with the Englesby attorney to facilitate this conveyance and reviewed the Quitclaim Deed on July 29, 2021.
Procurement Review	N/A as this is a conveyance of real property.
Contact Persons	Kathleen Rastetter, Asst. Clackamas County Counsel 503.742.5398 and Sarah Eckman, Interim Director Clackamas County Business and Community Services, 503.894.3135.

BACKGROUND:

Around 1940, the County foreclosed on several parcels of property include a property in Brightwood, Clackamas County, Oregon, (26E 23DD 00100 on deed #281-467, recorded June 10, 1941), for unpaid real property taxes. The deed that was recorded as part of the foreclosure action did not have the correct legal description for the property, resulting in an ineffective foreclosure. The County did not learn of the error until 2016, when the County attempted to sell the property and was informed by the title company that the County did not own the property and title remained with the original owners, who were now deceased.

The County, through its Business and Community Services Property Division, traced ownership of the property to present-day heirs and informed them of the status of the property. Because the County believed it owned the property after foreclosure, no property taxes were assessed on the property since 1941. The Assessor is limited by Oregon law to impose five years of delinquent real property taxes. The Assessor placed the appropriate amount of real property taxes and interest on the tax roll, and Lee Englesby paid them in full on May 3, 2021. County Counsel worked with Mr. Englesby's attorney to facilitate the transaction. The County now seeks to quitclaim the property to the Englesbys to ensure that there are no clouds on his title due to the long time the property was on the County's books as county-owned property. This transaction will promote the Englesbys' ownership interests and returns the property to the county's tax roll.

Recommendation: Counsel recommends that the Board approve conveyance of this property by quitclaim deed to ensure any interest the County may have in the property is conveyed to the Englesbys.

Respectfully submitted,

Kathleen J. Rastetter
Senior Asst. County Counsel

After recording return to:
Clackamas County Property
2051 Kaen Road
Oregon City, OR 97045

Until a change is requested all taxes shall be sent to:
Lee F. Englesby and Christie Englesby
1943 E. Gloucester Street
Boise, ID 83706



QUITCLAIM DEED

CLACKAMAS COUNTY, OREGON, a political subdivision of the State of Oregon, Grantor, releases and quitclaims to Lee F. Englesby and Christie Englesby, Grantees, all its right, title and interest in that real property situated in Clackamas County, Oregon, and being described as follows:

All that portion of the Southeast one-quarter of the Southeast one-quarter of Section 23, Township 2 South, Range 6 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon lying North of the Sandy River. EXCEPTING THEREFROM Ownership of the State of Oregon in and to that portion of the premises herein described lying below the line of ordinary high water of the Sandy River, in the County of Clackamas and State of Oregon.

The true and actual consideration being paid for this transfer stated in terms of: Six Thousand and Fifty-Nine and 53/100 (\$6,059.53). This amount excludes any amount for liens, mortgages, contract, indebtedness, or other encumbrances existing against the above-described real property to which the property remains subject or which the purchasers agree to pay or assume.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17 CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Clackamas County, Oregon. Board of County Commissioners approved by Agenda Item Number _____ on the day of _____, 2021.

CLACKAMAS COUNTY

(FILL IN)

State of Oregon }
County of Clackamas }

This document was acknowledged before me on _____ day of _____ 2021, by (FILL IN) of Clackamas County.

Notary Public for Oregon
My Commission Expires: _____



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD | OREGON CITY, OR 97045

Stephen L. Madkour
 County Counsel

August 2, 2021

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
 Assistants

Board of County Commissioners
 Clackamas County

Members of the Board:

Intergovernmental Agreement Between Clackamas County and the Clackamas County Fair Board for the 2021 Clackamas County Fair

Purpose/Outcomes	Enter into an Inter-governmental Agreement between the Fair Board and Clackamas County and the Sheriff's Office to provide security services during the Clackamas County Fair
Dollar Amount and Fiscal Impact	The Fair Board will pay the Sheriff's Office \$17,000 for these services
Funding Source	Funds are paid to the County by the Fair Board
Duration	August 17 – 21, 2021
Strategic Plan Alignment	Building public trust through good government and ensuring safe, healthy, and secure communities
Previous Board Action	The has been no prior board action
County Counsel Review	Approved by county counsel
Procurement Review	No procurement required
Contact Person	Captain Brad O'Neil Sheriff's Office, Stephen Madkour, County Counsel


BACKGROUND:

The Sheriff's Office provides a level of security for the Clackamas County Fair. In the past, the agreement to provide these security services was fairly informal. The attached Inter-governmental Agreement formally memorializes that relationship. The agreement provides for payment of \$17,000 in return for security services during the fair week. The Sheriff's Office is hired to aid in traffic control and monitor for criminal activity; it is not hired to enforce any of the fair board's policies.

RECOMMENDATION:

Staff respectfully requests that the Board approve of the terms set forth in the proposed IGA.

Sincerely,



Stephen L. Madkour
County Counsel

Attachment

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND THE CLACKAMAS COUNTY FAIR BOARD FOR THE 2021 CLACKAMAS
COUNTY FAIR**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County ("County"), a political subdivision of the State of Oregon, on behalf of the Clackamas County Sheriff's Office ("Sheriff") and the Clackamas County Fair Board ("Agency"), collectively referred to as the "Parties" and each a "Party."

RECITALS

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

Agency has requested, and County has agreed to provide, one or more Sheriff's office cadets and sworn officers ("Deputies") to patrol the Clackamas County Fairgrounds during the 2021 Clackamas County Fair (the "Event").

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 August 18, 2021, whichever is sooner.
2. **Scope of Work.** County agrees to provide the following law enforcement services ("Work") during the Event:
 - A. County will provide one or more Sheriff Deputies to patrol the Clackamas County Fairgrounds during Event. The Event will be held August 13, 2021 through August 17, 2021.
 - B. The Deputies will be present at the Event from 8: 00 a.m. to 12:00 a.m. each day between August 17, 2021 – August 21, 2021.
 - C. The Deputies will be solely the employees of the County by and through the Sheriff's Office. The Sheriff is solely responsible for the management, discipline, compensation, and other matters related to the employment of the Deputies.
 - D. The Deputies shall provide law enforcement services solely to respond to health and safety issues that may arise during the Event. As used herein, "health and safety issues" means actual or potential violations of applicable law over which County has authority to enforce. The determination of whether an issue is a health and safety issue shall be made by the Deputies, in their sole discretion, and not by Agency.
 - E. Unless specifically authorized by the Sheriff, the Deputies shall not enforce Agency policies, procedures, or other rules associated with the Event or use of the Clackamas County Fairgrounds. This includes, but is not limited to, questions involving appropriateness of signs, banners, slogans, clothing, or other expressions

of speech that Agency may assert are limited during the Event. Agency is solely responsible for enforcing its own policies, procedures, and other rules associated with the Event or use of the Clackamas County Fairgrounds.

3. **Consideration.** Agency agrees to pay the County, from available and authorized funds, a flat fee in the amount of seventeen thousand dollars (\$17,000.00) in consideration for County performing the Work.
4. **Payment.** Unless otherwise specified, the Agency shall tender payment of the \$17,000.00 within thirty (30) days of completion of the Event.
5. **Representations and Warranties.**
 - A. *Agency Representations and Warranties:* Agency represents and warrants to County that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Agency enforceable in accordance with its terms.
 - B. *County Representations and Warranties:* County represents and warrants to Agency that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
 - C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
6. **Termination.**
 - A. Either the County or the Agency may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
 - B. Either the County or the Agency may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
 - C. The County or the Agency shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
 - D. The County may terminate this Agreement in the event (i) the County fails to receive expenditure authority sufficient to allow the County, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement; (ii) if federal or state laws, regulations or guidelines are modified or interpreted in such a way

that performance under this Agreement is prohibited; or (iii) if the County determines, in its sole administrative discretion, that it lacks sufficient resources to provide deputies during the Event.

- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination. In the event this Agreement is terminated prior to completion of the Event for any reason other than County's breach of the Agreement, Agency shall pay County the actual hourly costs incurred by County in providing the Deputies during the portion of the Event, in an amount not to exceed \$17,000.00.

7. Indemnification.

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

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

- 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. Angela Brandenburg, Sheriff, or her designee will act as liaison for the County.

Contact Information:

9101 SE Sunnybrook Blvd,
Oregon City, OR 97015

- B. Laurie Bothwell, Executive Director, or her designee will act as liaison for the Agency.

Contact Information:

Clackamas County Fairgrounds & Event Center

Phone: 503-263-9208

Office: 503-266-1136

Web: www.clackamascountyeventcenter.com

Email: laurieb@ccfairevents.com

694 NE 4th Avenue, Canby, OR 97013

10. General Provisions.

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and Agency that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. **Access to Records.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising

out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the County's authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.

E. Reserved.

F. Hazard Communication. Agency shall notify County prior to using products containing hazardous chemicals to which County 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 County's request, Agency shall immediately provide Material Safety Data Sheets for the products subject to this provision.

G. 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.

H. 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.

I. 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.

J. 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.

- K. **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.
- L. **No Third-Party Beneficiary.** Agency and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- M. **Subcontract and Assignment.** Agency shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- N. **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.
- O. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (O), (R), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- P. **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.
- Q. **Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- R. **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.
- S. **Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

T. **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.

U. **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

Chair, Board of County Commissioners


Date

Clackamas County Sheriff

Angela Brandenburg, Sheriff

Date

Clackamas County Fair Board



By: Laurie Bothwell
Its: Executive Director

July 28, 2021

Date



Dave DeVore
Interim Director

Technology Services

121 Library Court Oregon City, OR 97045

July 27, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between
Clackamas Broadband eXchange and City of Hillsboro

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for approval to enter into an Intergovernmental Agreement (IGA) with the City of Hillsboro for project management of a new \$240,000.00 fiber construction project for the Metro Area Joint CAD Services (MAJCS) and Washington County Consolidated Communications Agency (WCCCA).
Dollar Amount and Fiscal Impact	CBX will provide project management of the project for the City of Hillsboro to install 2 new redundant fiber paths to the new WCCCA building. The City of Hillsboro will reimburse CBX for staff time and expenses up to \$5,000.00.
Funding Source	The funding source for the expense of CBX staff time will be contributed from the CBX budget and then reimbursed by the City of Hillsboro.
Duration	Effective upon signature by the board the IGA will be in effect until the completion of the fiber project. This project is not expected to last longer than 6 months.
Previous Board Action	Board has not previously reviewed a similar IGA.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Build a strong infrastructure. 2. Build public trust through good government.
Counsel Review	Andrew Naylor, June 10, 2021
Contact Person	Dave Devore (503)723-4996
Contract No.	N/A

BACKGROUND:

CBX is proposing to provide project management oversight for a new redundant dark fiber connection for the new WCCCA building in Hillsboro. This new dark fiber project will provide necessary infrastructure for emergency services in both Washington County and Clackamas County.

Washington County Consolidated Communications Agency (WCCCA) is one of four 911 centers in the MAJCS (Metro Area Joint CAD System) that shares a regional Computer Aided Dispatch (CAD) system which is the brains for all 911 centers. Clackamas County (C-COM), Lake Oswego Communications (LOCOM) and Columbia 911 (C911) are all partners of this CAD system. It is important that the CAD Network be built on dark fiber that is owned and not commercially shared so that none of these 911 centers lose connectivity to all 4 of the partners involved in this project.

The four 911 centers have sought to ensure the highest levels of redundancy and resilience to provide a stable CAD environment, not only for the 911 partners, but also for all of the police, fire

and Emergency Medical Service (EMS) providers who rely on the life safety information shared by 911 callers within these four jurisdictions.

RECOMMENDATION:

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

Sincerely,



Dave DeVore
Interim Director, Technology Services



INTERGOVERNMENTAL AGREEMENT

This Agreement ("Agreement") is made by and between the City of Hillsboro, a municipal corporation of the State of Oregon ("City"), and Clackamas County, Oregon, a political subdivision of the State of Oregon. ("County").

RECITALS

Whereas, the City of Hillsboro and Clackamas County agree that reliable fiber optic cable connectivity to the Washington County Consolidated Communications agency is a benefit to the entire region ;

Whereas, Clackamas County has the expertise to coordinate the installation of fiber optic cable; and

Whereas, the City of Hillsboro is willing to incorporate the new fiber cabling into the City's existing network.

The parties agree as follows:

TERMS AND CONDITIONS

1. **START AND END DATES.**

The **effective date** of this Agreement is the date fully executed by both parties. This Agreement shall continue until June 30, 2022. Agreement may be terminated earlier or term may be extended, as provided in this Agreement.

2. **AGREEMENT DOCUMENTS.**

This Agreement consists of these Terms and Conditions and the documents ("Exhibits") listed below in descending order of precedence. A conflict in these documents shall be resolved in the priority listed below with these Terms and Conditions taking precedence. The Exhibits to this contract are:

- Exhibit A: Fiber Plans;

3. **RESPONSIBILITIES OF THE PARTIES.**

3.1. City of Hillsboro Responsibilities:

- 3.1.1. City will provide an approved design for the installation of fiber (Exhibit A).
- 3.1.2. City will pay County a project management fee not to exceed \$5,000. Fee's to include, but not limited to the procurement process for a construction contractor and any legal fee's.
- 3.1.3. City will participate in a joint procurement process with County for construction of the fiber network. The City will provide the design, pay monthly invoices and have final approval on any change orders. City will provide all City permits required for this project.
- 3.1.4. City will join County in entering into a contract with the contractor that has been awarded the contract under the joint procurement process.

- 3.1.5. City will be responsible for paying approved construction related charges to the selected contractor.
 - 3.1.6. Upon inspection, approval, delivery of asbuilts, and payment to County, the City will assume ownership of the installed infrastructure and responsibility for its maintenance.
 - 3.2. Clackamas County Responsibilities:
 - 3.2.1. County will provide all project management services related to the installation of the infrastructure as shown in Exhibit A. Installation will include a complete solution including any conduits, fiber cable, handholes, splice enclosures, splicing, testing, etc.
 - 3.2.2. County will participate in a joint procurement process with City for construction of the fiber network. County will review all monthly invoices for accuracy, approve any change orders and provide accuracy and quality control of fiber project.
 - 3.2.3. County will join City in entering into a contract with the contractor that has been awarded the contract under the joint procurement process.
 - 3.2.4. County will review invoices submitted by the contractor to ensure they align with work completed, perform all tasks to meet BOLI requirements, and provide detailed asbuilts and fiber test results upon completion of the project.
4. **COMPLIANCE WITH APPLICABLE LAWS.**

Each party shall comply with all applicable federal, state and local laws; and rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition or handicap. In addition, each party agrees to comply with all local, state and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.
5. **RECITALS.**

The recitals above are incorporated herein as if fully set forth.
6. **INDEPENDENT CONTRACTOR.**

Each party is an independent contractor with regard to each other party and agrees that the performing party has no control over the work or the manner in which it is performed. No party is an agent or employee of any other. 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.
7. **TERMINATION.**
 - 7.1. Termination for cause. Either party may terminate this Agreement, in whole or in part, immediately upon notice, or at such later date as may be established in such a notice, to the other party upon the occurrence of the following events: One party commits any material breach or default of any covenant, warranty, obligation, certification or agreement under this Agreement, fails to perform the work or services under this Agreement within the time specified herein or any extension thereof, or so fails to pursue the work or services as to endanger the performance under this Agreement in accordance with its terms.

- 7.2. Either party may terminate this Agreement in the event that party fails to receive expenditure authority sufficient to allow the terminating 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 either the project described in this Agreement is prohibited or the terminating party is prohibited from paying for such work from the planned funding source. Neither party shall enter into any contract arising from the joint procurement described in Section 3, above, without obtaining expenditure authority to do so.
8. **CHANGES.**
Modifications to this Agreement are valid only if made in writing and signed by all parties.
9. **INDEMNIFICATION.**
Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including their officers, agents, and employees, against all claims, demands, penalties, actions and suits (including the cost of defense thereof and all attorney fees and costs, through all appeals) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the acts or omissions of that party or its officers, employees or agents.
10. **ACTION, SUITS OR CLAIMS.**
Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in claims or litigation in any way related to this Agreement.
11. **INSURANCE.**
Each party agrees to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.269 to 30.274.
12. **NO THIRD PARTY BENEFICIARIES.**
Except as set forth herein, this Agreement is between the parties and creates no third-party beneficiaries. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to third parties unless such third parties are expressly described as intended to be beneficiaries of its terms.
13. **REMEDIES, NON-WAIVER.**
The remedies provided under this Agreement shall not be exclusive. The parties shall also be entitled to any other equitable and legal remedies that are available. No waiver, consent, modification or change of terms of this Agreement shall bind the parties unless in writing and signed by all parties. 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 a party to enforce any provision of this Agreement shall not constitute a waiver by a party of that or any other provision.

14. **OREGON LAW, DISPUTE RESOLUTION AND FORUM.**

This Agreement shall be construed according to the laws of the State of Oregon. The parties shall negotiate in good faith to resolve any dispute arising out of this Agreement. If the parties are unable to resolve any dispute within fourteen (14) calendar days, the parties are free to pursue any legal remedies that may be available. Any litigation between the parties arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Washington County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon located in Portland, Oregon.

15. **ASSIGNMENT.**

No party shall assign its rights or obligations under this Agreement, in whole or in part, without the prior written approval of the other party or parties.

16. **SEVERABILITY/SURVIVAL OF TERMS.**

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. All provisions concerning indemnity survive the termination of this Agreement for any cause.

17. **FORCE MAJEURE.**

In addition to the specific provisions of this Agreement, performance by any Party shall not be in default where delay or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control to the Party to be excused.

18. **INTERPRETATION OF AGREEMENT.**

This Agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any provision. The Section headings contained in this Agreement are for ease of reference only and shall not be used in construing or interpreting this Agreement.

19. **INTEGRATION.**

This document constitutes the entire agreement between the parties on the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings, representations or communications of every kind on the subject.

20. **OTHER NECESSARY ACTS.**

The Parties shall execute and deliver to each other any and all further instruments and documents as may be reasonably necessary to carry out 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 or mailing with postage prepaid to Agency or City at the address set forth below. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

For the City of Hillsboro

Contract Administrator Name, Title: **Greg Mont, Information Services Director**

Address, City, State and ZIP Code: **150 E Main St., Hillsboro, OR 97123**

Telephone: **503-681-5401**

Email: **greg.mont@hillsboro-oregon.gov**

For the Agency

Contract Administrator Name, Title: **Duke Dexter, Clackamas Broadband eXchange Manager**

Address, City, State and ZIP Code: **121 Library Crt, Oregon City, Oregon 97045**

Telephone: **503-722-6663**

Email: **ddexter@clackamas.us**

22. **COUNTERPARTS.**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

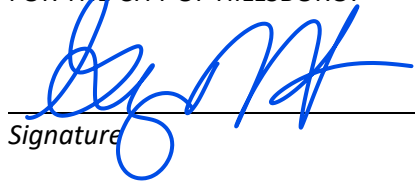
This writing is intended both as the final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement.

All of the aforementioned is hereby agreed upon by the parties and executed by the duly authorized representatives of the parties signing on the next page.

23. **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.

24. **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.

FOR THE CITY OF HILLSBORO:



Signature

Greg Mont
Name (Printed)

IS Director
Title

7/20/21
Date

FOR CLACKAMAS COUNTY:

Signature

Name (Printed)

Title

Date



Dave DeVore
Interim Director

Technology Services

121 Library Court Oregon City, OR 97045

July 27, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Amendment #4 between
Clackamas Broadband eXchange and the State of Oregon

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for an amendment with the State of Oregon to add sites for dark fiber services.
Dollar Amount and Fiscal Impact	The monthly recurring cost (MRC) for the 2 new dark fiber laterals will be \$510.00 and the nonrecurring cost (NRC) is \$33,900.00.
Funding Source	The funding source for the expansion of the CBX fiber network will be contributed from the CBX budget and then reimbursed by the State of Oregon.
Duration	Effective upon signature by the board the IGA will be in effect until June 30, 2026.
Previous Board Action	Board has previously approved similar amendments with the State of Oregon for other sites within Clackamas County.
Strategic Plan Alignment	<ol style="list-style-type: none">1. Build a strong infrastructure.2. Build public trust through good government.
Counsel Review	Amendment # 4 was approved by Andrew Naylor May 6, 2021.
Contact Person	Dave Devore (503)723-4996
Contract No.	N/A

BACKGROUND:

CBX currently provides dark fiber connectivity to 11 sites within Clackamas County for the State of Oregon. CBX is looking to provide connectivity to 2 more sites bringing the total to 13. If approved, the 13 sites will receive the benefits of the CBX dark fiber connectivity through June 30, 2026 for current and future communication requirements.

RECOMMENDATION:

Staff respectfully recommends approval to continue providing dark fiber connections to the State of Oregon. Staff further recommends the Board delegate authority to the Technology Services Director to sign agreements necessary in the performance of this agreement.

Sincerely,

Dave DeVore
Interim Director, Technology Services

**AMENDMENT #4 to
INTERGOVERNMENTAL AGREEMENT # 107-55434-14
BETWEEN CLACKAMAS COUNTY AND THE STATE OF OREGON**

This is Amendment No. #4 to Intergovernmental Agreement No. 107-55434-14 (“Agreement”), as amended, executed by and between the State of Oregon, acting by and through the Department of Administrative Services, Procurement Services on behalf of Enterprise Technology Services (“Customer”), and Clackamas County, a political subdivision of the State of Oregon (“County”), on or about November 18, 2013.

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 to amend the Agreement as follows:

1. Paragraph 5(b) of the Agreement is hereby deleted and replaced in its entirety with the following:

(b) This Agreement is effective upon the date all approvals necessary by law have been obtained and the Agreement is signed by all the parties (“Effective Date”). The Agreement is effective through June 30, 2026, unless amended or terminated. Customer, at its option, may by Amendment renew the Agreement for subsequent years, at the County’s then-current rate schedule, provided, however, that the entire term of the Agreement, including all renewals, will not be more than thirteen (13) years from the Effective Date. Customer shall send County written notice of its intent to renew the Agreement at least thirty (30) days prior to the end of the current term.

2. Appendix A is hereby replaced in its entirety with the Appendix A that is attached in its entirety to this Amendment.

Except as expressly amended above, all other terms and conditions of original Agreement are still in full force and effect.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have approved and executed the above Amendment to the Agreement.

Clackamas County

By (signature): _____

Name: _____

Title: _____

Date: _____

**State of Oregon, acting by and through the Department of Administrative Services,
Enterprise Technology Services**

By (signature): Sandy C Wheeler

Name: Sandy C. Wheeler

Title: Director, EIS- Data Center Services

Date: 7/19/2021

**State of Oregon, acting by and through the Department of Administrative Services,
Procurement Services**

By (signature): Lori Nordlien

Name: Lori Nordlien

Title: IT Procurement Strategist

Date: 7/16/2021

Agreement Approved: Oregon Department of Justice – NOT REQUIRED

APPENDIX A

SERVICE AND RATE SCHEDULE

1. **Specified Services and Rates**

The following are the sites, services, and rates agreed to by County and Customer at which Customer shall be provided services on the fiber optic network during the term of the Agreement. It is understood by both parties that service to these sites shall be provided for the rates below, subject to any rate increases otherwise applicable in accordance with terms herein. It is further understood that, during the term of the Agreement, Customer may add services to existing or new locations, or change services and/or locations, but that such changes are subject to the rates for such additional services.

2. **Construction, Installation and Activation**

For construction, installation and activation work and provision of fiber optic network components, the County shall charge Customer nonrecurring charge(s) as specified in Section 5 of Appendix A. All facilities constructed under this Agreement and Appendix A shall be owned, operated, and maintained by the County.

3. **Service Changes and Conversions**

Both parties agree that Customer may add or change services during the term of the Agreement, but that such changes are subject to applicable rates, and upgrade and downgrade charges.

4. **Annual Recurring Charges**

From (Connecting Point A:Site Name & Address)	To (Connecting Point B:Site Name & Address)	Service	Monthly Rate (\$)
1 Clackamas Development Services Building 2051 Kaen Rd Oregon City, OR 97045	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
2 Oregon ME Office 13309 SE 84 th Ave Clackamas, OR 97015	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
3 ODOT Maintenance 325 SW 2 nd Ave Estacada, OR 97023	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
4 ODOT/OSP Government Camp 90300 E Highway 26 Government Camp, OR 97028	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
5 Unemployment Office 506 High St	Clackamas Education Service District	One Pair (two) dark	

	Oregon City, OR 97045	13455 SE 97th Ave. Clackamas, Oregon 97015	fibers	\$255.00
6	Sandy DMV 37395 Highway 26 Sandy, OR 97055	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
7	OLCC Office 9079 SE McLoughlin Blvd Portland, OR 97222	Clackamas Education Service District (South Route) 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
8	OLCC Warehouse 1777 SE Milport Rd Milwaukie, OR 97222	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
9	OLCC Office 9079 SE McLoughlin Blvd Portland, OR 97222	Clackamas Education Service District (North Route) 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
10	DEQ 9350 SE Clackamas Rd Clackamas, OR 97015	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
11	ODOT-HWY 26 34250 SE Highway 26 Boring, OR 97009	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
12	ODF 14995 D HWY 211, Molalla, OR 97038 site (US Forestry Building).	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00
13	ODOT Estacada District 2C Office 2225 NW Campus Dr Estacada, OR 97023	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00

5. Nonrecurring Charges

	From (Connecting Point A:Site Name & Address)	To (Connecting Point B:Site Name & Address)	Service	Amount (\$)
1	ODF 14995 D HWY 211, Molalla, OR 97038 site (US Forestry Building).	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction	\$5,000.00
2	ODOT Estacada District 2C Office 2225 NW Campus Dr Estacada, OR 97023	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction	\$28,900.00

6. Late Payment Interest

Customer will be charged interest for any payment made after its due date (thirty (30) days after receipt of invoice). Interest is charged at a rate of two-thirds of one percent (2/3 of 1%) per month, or eight percent (8%) annually, on any installment not paid within forty-five (45) days after receipt.

7. Annual Consumer Price Index (CPI) Adjustments

All fees and minimum charges are subject to Consumer Price Index (CPI) adjustments, to be applied annually. The amount of the fees and charges specified herein may increase annually by a percentage up to the change in the West Region (West City Size B/C 2.5 Million or less) Consumer Price Index of the US Dept. of Labor, Bureau of Labor Statistics (<https://www.bls.gov/regions/west/data/xg-tables/ro9xg01.htm>), based upon the rate of change as stated from the last month reported to the same month of the preceding year. In the event such Consumer Price Index (or a successor or substitute index) is not available, a reliable governmental or other nonpartisan publication evaluating the information theretofore used in determining the Consumer Price Index shall be used in lieu of such Consumer Price Index.

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Dave DeVore
Interim Director

Technology Services

121 Library Court Oregon City, OR 97045

August 3, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a contract between Clackamas Broadband
eXchange and Denver Gas & Electric Building MMR, LLC

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for approval to sign a contract to lease a full data cabinet in Denver, CO.
Dollar Amount and Fiscal Impact	The monthly recurring cost (MRC) is \$1,192.50. This cost will be contributed from the CBX budget. No general funds will be used.
Funding Source	The funding source for the expansion of the CBX fiber network will be contributed from the CBX budget.
Duration	Effective upon signature by the board the contract will be in effect for three (3) years.
Previous Board Action	Board has previously approved similar contracts with other internet and communication service providers.
Strategic Plan Alignment	<ol style="list-style-type: none">1. Build a strong infrastructure.2. Build public trust through good government.
Counsel Review	Approved by Andrew Naylor July 26, 2021.
Contact Person	Dave Devore (503)723-4996
Contract No.	N/A

BACKGROUND:

CBX is seeking authorization to lease a data rack at the Denver Gas & Electric Building in Denver Colorado. This is the final infrastructure needed to complete the eastern route for connectivity directly from the CBX fiber network to Denver Colorado. This connection will strengthen the CBX network in case of a seismic event that could render the Portland market inoperable.

RECOMMENDATION:

Staff respectfully recommends approval of the contract with Denver Gas & Electric Building for the data rack. Staff further recommends the Board delegate authority to the Technology Services Interim Director to sign agreements necessary in the performance of this agreement.

Sincerely,

Dave DeVore
Interim Director, Technology Services

DEFINED TERMS

1. Effective Date: Upon signature of both Parties.
2. Licensor: Denver Gas & Electric Building MMR, LLC, a Colorado limited liability company doing business as 910Telecom
3. Licensor's Address: 910 – 15th Street
Suite 1040
Denver, Colorado 80202
Attn: Demetrios Latsis , General Manager
Facsimile Number: (303) 825-2552
Email: Jim@910Telecom.com
4. Licensee: Clackamas County, Oregon doing business as the Clackamas Broadband eXchange
5. Licensee's Address: 121 Library Court
Oregon City, OR 9045
Email Address for Invoices: AP@Clackamas.us
With a copy to: ddexter@clackamas.us
6. Building: Denver Gas & Electric Building, 910-15th Street, Denver, Colorado
7. Landlord: DGEB Management, LLC, a Colorado limited liability company
8. Space: Suite 730, as shown on Exhibit A attached and made a part of this Agreement
9. Lease: Lease for Telecommunications Services Provider dated November 1, 2007, as amended, for the Space between Licensor and Landlord
10. Cabinet: RR numbered 701.15 (42 RUS) in the Space
11. Fees: Those payments for all fees including License Fees, Connection Fees, Installation Fees, Power Fees and Other Fees, set forth in Section 3 of this Agreement and on Exhibit B attached and made a part hereof
12. Licensor Rules: Those set forth on Exhibit C attached and made a part of this Agreement.
13. Term: Three (3) years, commencing on the Effective Date.

This License Agreement (“**Agreement**”) shall consist of the foregoing Defined Terms, and the provisions of the Standard Provisions (consisting of Articles 1 through 17 which follow) and Exhibit’s A through E, inclusive, all of which are incorporated herein by this reference as of the Effective Date. Any conflict between the provisions of the Defined Terms, the provisions of the Standard Provisions and/or the Licensor Rules (regardless of when promulgated or revised), shall be resolved in the following order of priority, (a) the Defined Terms shall control over the Standard Provisions and the Licensor Rules; and (b) the Standard Provisions shall control over the Licensor Rules. Any initially capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Standard Provisions. Licensor and Licensee may be referred to collectively as the “**Parties**” or individually as each “**Party**”.

Licensor grants a license to Licensee and Licensee accepts such license on the terms and conditions set forth in this Agreement with the defined terms having the meanings set forth in this Agreement.

LICENSOR:
Denver Gas & Electric Building MMR, LLC
a Colorado limited liability company

By: _____
Jim Latsis, General Manager

LICENSEE:

a _____

By: _____
Printed Name: _____
Title: _____

STANDARD PROVISIONS

1. **Grant of License and Terms and Conditions.**

1.1. **Licensor's Interest.** Licensor leases the Space in the Building pursuant to the Lease. Licensor has been granted the exclusive right to operate meet-me-room facilities for the building and otherwise manage connectivity among tenants of the building. The Building Meet-Me-Room means areas in the building operated by Licensor for the purpose of allowing Building tenants, tenant customers, subtenants and licensees to physically connect to one another and exchange data and voice connections. It is the intent of Licensor and Licensee that all cross-connections are to be made in the Building Meet-Me-Room.

1.2. **Grant of License.** Licensee shall have the following rights (the "**License**") for the Term, subject to the Lease and on the conditions set forth in this Agreement:

(a) the exclusive right to use the Cabinet to install, operate, maintain, repair and replace ("**Operate**" or "**Operating**" or "**Operations**") Licensee-owned fiber panels and equipment ("**Equipment**"); and

(b) the non-exclusive right to access the Cabinet, in the manner described in Section 1.3 of this Agreement, and to exercise such other rights as may be granted herein.

1.3. **Access.**

(a) Licensee shall have access (through its authorized employees) to the Space and the Cabinet 24 hours a day, 365 days a year, subject to reasonable security measures imposed by Landlord or Licensor for the protection of the building and its occupants. Licensee must obtain the prior approval of Licensor for access by any contractor.

(b) Licensee may enter only those Building common areas (including common areas within the Space) necessary for access to the Cabinet and any other portion of the Space licensed to third parties that have given Licensee permission to access their areas.

(c) All persons authorized by Licensee to access the Cabinet shall follow all Licensor Rules.

(d) Licensee shall have no access to other portions of the Building unless Licensee has first completed the Access and Plans for Work Request Form attached hereto as Exhibit D, delivered same to Licensor, obtained Licensor's approval of such access, and paid any costs incurred by Licensor in providing such access.

(e) Licensee shall not have any right to place antennas outside the Cabinet without Licensor's prior written consent, which consent may be withheld, conditioned or delayed in Licensor's sole discretion.

(f) Licensor and its agents, employees, representatives and contractors may enter the Space for any reason, including for maintenance of the Space, for the purpose of inspecting and making necessary repairs, additions (including conduits, conduit risers, ducts, pipes (vertical or horizontal)) or other installations or improvements or replacements to the Cabinet as required by this Agreement or as the Licensor elects to undertake, and to verify that Licensee's operations and Equipment comply with the terms of this Agreement, at any time and from time to time, without prior notice to Licensee and without Licensee's consent.

(g) Licensor reserves the right to suspend access to the Cabinet temporarily due to accident, repairs, maintenance, alternations or improvements or Force Majeure events, as defined in Section 14.4. In addition, Licensee acknowledges that Landlord's or Licensor's performance of routine or emergency repairs and maintenance on, and replacement of equipment or other property located in and around the Building, including the DC Power Plant, that is integral to a telecommunication facility, may interrupt the Operations temporarily. Licensor agrees to use reasonable efforts to minimize such interruptions and shall, except in the case of an emergency, accident, or Force Majeure event as determined by Licensor in its sole discretion, provide not less than five days prior notice by electronic mail of such interruption.

(h) No windows shall be opened in any part of the Building without the prior written permission of the Licensor or Landlord.

(i) Fire escapes, fire doors and landings shall not be used by Licensee except in case of an emergency.

1.4. **Equipment and Use of Cabinet.**

(a) Licensee shall use the Cabinet in compliance with this Agreement solely for Operating the Equipment and interconnecting to third parties and for no other purpose.

(b) Licensee has inspected the Cabinet and the Space and satisfied itself concerning their condition and suitability for Licensee's contemplated uses. Licensor does not warrant or represent that the Cabinet or any part or all of the Space is

suitable for Licensee's business operations. Licensee accepts the Cabinet and the Space "AS IS" and agrees that Licensor has no obligation to perform any Work (as herein defined) or improvements or provide any labor or materials to prepare, modify or alter the Cabinet or the Space for Licensee. Licensor disclaims all express and implied warranties relating to the Building, the Space and the Cabinet and the provision of power (as described in Section 3.3) and any other services, including warranties of merchantability or fitness for particular purpose. Licensee's Equipment is in the Cabinet at the sole risk of Licensee.

(c) Licensee shall not maintain or store any boxes or other containers in the Cabinet. If any boxes or other containers are located in the Cabinet, Licensor may enter the Cabinet upon oral notice to Licensee and open and inspect the contents thereof without any representative of Licensee being present and all without any obligation or liability to Licensee.

(d) Licensee shall not bring into the Building or install in the Cabinet any objects (including Equipment) whose weight, individually or combined, would exceed 120 pounds per square foot of the Cabinet. Licensee agrees to use commercially reasonable efforts to ensure that the Equipment and its operations will not interfere in any way with use of the Building by other Building occupants (including Licensor, other licensees and tenants of the Building).

(e) Any delivery, installation, replacement or removal of Equipment that constitutes a fixture in the Cabinet is subject to review and prior approval by Licensor of the plans and specifications therefor and Licensee shall strictly adhere to all requirements imposed, from time to time, by Licensor in Licensor's sole discretion.

(f) Licensee shall comply with (i) all laws, ordinances, orders, rules and regulations of state, federal, municipal or other agencies or bodies having jurisdiction relating to its specific use or manner of use of the Cabinet, (ii) all industry standards, practices and procedures; and (iii) the Licensor Rules. Licensor may, from time to time and upon thirty (30) days' written notice to Licensee, amend the Licensor Rules by providing a revised Exhibit C to Licensee. Licensee may either (1) accept the amended Licensor Rules or (2) terminate this Agreement. Licensor intends to enforce the provisions of this Agreement and any Licensor Rules uniformly against all licensees but non-uniform enforcement of this Agreement or of any Licensor Rules shall not excuse any breach by Licensee. Licensee shall cause its employees, contractors, representatives, agents, customers and invitees to comply with the Licensor Rules.

(g) Licensee shall not disrupt, adversely affect or interfere with tenants or other licensees in the Building or the Space or with the use and enjoyment of any leased or licensed premises or Building common areas by any occupant of the Building, including by allowing any noise, smoke or odor to escape from the Cabinet, or any noise in excess of local zoning requirements or industry standards.

(h) When using the Cabinet or operating its Equipment, Licensee shall not cause electromagnetic interference ("**EM Interference**"). EM Interference includes interfering in any way with the ability of another occupant of the Building to:

- (i) send or receive EM transmissions (e.g., radio, television, telephone, microwave, short-wave, long-wave or other electromagnetic signals of any sort);
- (ii) operate communications devices (e.g., electronic equipment, computers, telephones, pagers, radios or televisions); or
- (iii) operate EM transmitters (e.g., antennae, amplifiers or satellite dishes).

(i) Licensor shall notify Licensee when Licensor suspects that Licensee's Operations or any Licensee's Equipment is causing EM Interference. Within 24 hours after that notice, Licensee shall eliminate such EM Interference to Licensor's reasonable satisfaction. If the EM Interference continues beyond that 24-hour period then Licensee shall disconnect and shut down its Equipment until the EM Interference ceases and if Licensee fails to do so, Licensor shall have the right to disconnect power to Licensee's Equipment. After performing maintenance, repair, modification, replacement, or other corrective action, Licensee may operate its Equipment only intermittently solely to test whether the corrective action eliminated the EM Interference. After elimination of the EM Interference, Licensee may re-connect and resume operation of its Equipment; Licensor will restore power to any disconnected Equipment as soon as practicable after the EM Interference ceases.

(j) If Licensee or any Equipment presents an immediate hazard to any part or system of the Building, or if Licensee otherwise violates this Agreement and fails to cure such violation after notice as provided in Section 5 below, then Licensor may notify Licensee to cease Operating the Equipment and Licensor shall have the right to disconnect power to the Equipment if Licensee fails to comply within 24 hours after Licensor's notice. Licensee may resume Operating the Equipment once it can be Operated without such hazard or after Licensee's default has been cured, as the case may be.

(k) Licensee shall not use the Cabinet in any way so as to increase premiums for insurance carried by Landlord or Licensor.

(l) Licensor has the right to lease, license and use other portions of the Space. Other occupants will operate their

own equipment and engage in other, perhaps competing, activities to those conducted by Licensee. Licensor may construct, modify, repair or alter portions of the Space or the Building (but not the Licensed Space).

(m) Licensor will use reasonable efforts to minimize moving, relocating or replacing Licensee's Equipment within the Space, provided, however, Licensor shall have the right to relocate, temporarily or permanently, the Cabinet to other premises within the Building ("**Relocation Area**") upon ninety (90) days' advance written notice to Licensee (the "**Relocation**"). The Relocation Area shall be Comparable to the Cabinet, as follows:

- (i) Licensor shall designate the Relocation Area after consulting Licensee.
- (ii) "**Comparable**" means that the Relocation Area has sufficient area, Utility capacity, design and network connectivity so that Licensee may provide its services in a manner similar to how it provided its services in the Cabinet, without additional material cost to Licensee.
- (iii) Licensee shall inspect the Relocation Area and may request reasonable modifications to the Relocation Area.
- (iv) Licensee shall have the sole responsibility to notify any persons with whom Licensee has a business relationship, including customers, vendors, and interconnecting carriers ("**Licensee Associates**") affected by the Relocation.
- (v) With Licensee's approval, Licensor shall arrange for moving the Equipment from the Cabinet to the Relocation Area. Licensor shall attempt to minimize any downtime for Licensee's Operations and Equipment.
- (vi) Licensor shall allow Licensee to perform a standard cutover procedure, if required by the Relocation, to ensure that the relocated Equipment is operational for service prior to discontinuing service from the Cabinet.

Prior to the relocation, Licensee may either (1) agree to the relocation or (2) terminate this Agreement. If Licensee agrees with the relocation, Licensor shall pay the expenses for making the Relocation Area Comparable to the Cabinet; moving the Equipment to the Relocation Area; temporary power required in connection with the cutover procedure; and reconnection fees associated with the cutover procedure. Licensor shall have no other liability resulting from the Relocation, including for lost revenue or other consequences from Licensee's Equipment downtime, for any liabilities of Licensee to Licensee Associates or for any injury to Licensee Associates.

2. **Construction and Improvements.** Licensee shall have the right to place its Equipment in the Cabinet but shall have no right to construct any improvements therein, nor is Licensor obligated to construct any improvements to the Cabinet, Licensee having inspected the same and accepted it in its as-is condition.

3. **Fees.**

3.1. Licensee may pay, from available and authorized funds, an amount not to exceed one hundred and ten thousand dollars (\$110,000.00) over the Term of this Agreement for the Fees for reoccurring and non-reoccurring costs described in Exhibit B. The not to exceed amount reflects the maximum Licensor could be paid based upon funds available under this Agreement. However, the amounts due to Licensor for the Fees described in this Section 3 are on either an as-needed basis, such as installation fees described in Section 3.2, or are monthly costs subject to change. Because the actual amount of Fees is not immediately ascertainable over the entire Term of this Agreement, Licensee does not promise or guarantee Licensor will be paid the full not-to-exceed amount described above. Any Fees that may due under this Agreement in excess of the not to exceed amount set forth herein are contingent upon future appropriation of funds in Licensee's budgets, as determined by Licensee in its sole administrative discretion,

3.2. **Installation Fees.** Licensee shall pay Licensor all costs related to the installation of any item (the "**Installation Fees**") as set forth on Exhibit B or in a proposal for Work. Installation Fees shall be paid by Licensee to Licensor upon execution of this Agreement or, for items installed subsequent to the initial Work, in advance of any installation Work to be performed.

3.3. **License Fees, Connection Fees and Other Fees.** Licensee shall pay Licensor the following:

(a) License Fees shall be paid monthly in advance on or before the tenth day of the month, without notice, demand or setoff. All Connection Fees and Other Fees as shown on Exhibit B are due within 30 days after Licensor notifies Licensee regarding payment of same. Invoices for Connection Fees and Other Fees shall be sent to Licensee at the address set forth in this Agreement or to such other place as Landlord may from time to time designate in writing to Tenant). Landlord agrees that Tenant may also pay Fees by Electronic Funds Transfer (EFT) or ACH to the bank account designated, from time

to time, by Landlord.

(b) By delivering a revised Exhibit B to Licensee at least sixty (60) days before the modification becomes effective, Licensor may modify Connection Fees, Power Fees and/or Other Fees to reflect: (i) additional services requested by Licensee under this Agreement; (ii) increases in Connection Fees and Other Fees as may be set forth in Exhibit B; or (iii) changes in Other Fees and/or Power Fees due to charges by third parties, including power, sales or use taxes, and labor rates.

(c) In addition to License Fees due and payable pursuant to this Agreement, Licensee shall pay recurring charges for cross-connect services ordered by Licensee, if any, through other meet-me-points or meet-me-rooms located within the Building.

(d) License Fees may only be increased once annually, and any such increase may not exceed three percent (3%) over the preceding year effective as of January 1 of each year during the Term. Licensor shall not be required to deliver a revised Exhibit B as described in Section 3.2(b) above for such annual increase.

3.3. Power Fees.

(a) Licensee shall pay for all electricity (the “*Utilities*”) consumed within the Cabinet at the rates specified in Exhibit B, as the same may be adjusted or modified from time to time. Power Fees are due within 30 days after Licensor notifies Licensee regarding payment of same. Invoices for Power Fees shall be sent to Licensee at the address set forth in this Agreement.

(b) Licensor shall make the following available for Licensee’s use in the Cabinet at Licensee’s sole cost and expense: (i) AC Power not exceeding 30 amperes @ 208 volts located within the Cabinet / DC Power not exceeding 100 amperes -48 VDC located within the Cabinet; and (ii) HVAC sufficient to maintain an ambient temperature of 72°F to 82°F and relative non-condensing humidity; however, Licensor shall not be required to provide more than the maximum cooling capacity of 6.5 kilowatts per cabinet/rack (for purposes of this Agreement, the footprint of each cabinet/rack is determined to be 20 square feet) or cooling capacities exceeding the existing system capacity, whichever is less. Any maximum amounts of power specified in this Section are the maximums allowed in the Cabinet. Licensee shall solely be responsible for the cost and expense of power to the Cabinet pursuant to the rates specified in Exhibit B.

(c) If Licensee requires Utilities or power unavailable at the Space or Cabinet, or more utilities or power than are available at the Space or Cabinet, then Licensee shall: (i) arrange to obtain such Utilities and power; (ii) comply with Article 2 in regard to any required Work; and (iii) pay all costs for such Utilities and power, including without limitation, costs of installation, equipment, Work, Infrastructure Work, additional electrical power generation capacity, recurring costs, maintenance costs and removal costs. If feasible, Licensor will assist Licensee to make such arrangements and if Licensor does so, Licensee must either, at Licensor’s request, pay such costs in advance or reimburse to Licensor all expenses that Licensor incurs in connection therewith including Licensor’s direct and indirect costs for man-hour time devoted to assisting Licensee in making such arrangements.

(d) Licensor furnishes all Utilities “**AS-IS**” and does not warrant that any Utilities will be free from shortages, failures, variations or interruptions. Failures, shortages, variations or interruptions of power shall neither constitute an eviction nor disturbance of Licensee’s use of the Cabinet, render Licensor liable to Licensee for abatement of any License Fees, nor excuse performance of Licensee’s obligations hereunder, nor shall Licensor be liable to any Licensee Parties (as defined in Section 8.1) for any such failures, shortages, variations or interruptions of power. If Utilities are interrupted and such interruption results in the simultaneous loss of the transmission of power at both the A and B sides of the Cabinet for a period in excess of eight (8) hours, this Agreement may be terminated upon written notice by either Party to the other given at any time before the restoration of such Utilities.

3.4. **Form of Payments.** All payments by Licensee shall be in US dollars and Licensee shall pay all fees associated with the transfer or collection of funds.

3.5. **Late Payments.** Any payment due hereunder that remains unpaid ten (10) days after its due date shall be subject to a late charge equal to 5% of the payment amount plus interest on the overdue amount at the annual rate of 18% per annum from the due date. Licensee agrees that such late charge and interest are not a penalty but a reasonable estimate of Licensor’s damages resulting from overdue payments. Licensor’s acceptance of any late charge or interest are in addition to and shall not be construed as waiving any other rights of Licensor with respect to Licensee’s default.

4. Term.

4.1. **Expiration.** The License shall terminate upon expiration of the Term without notice being required from either Party, subject to earlier suspension, revocation or termination as provided herein and subject in all events to the terms and provisions of Licensor’s Lease for the Space. This Agreement may also be terminated by Licensee for the following reasons:

(a) By Licensee for convenience upon thirty (30) days' written notice to the Licensor.

(b) If federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the work under this Agreement is prohibited, or Licensor is prohibited from paying for such work from the planned funding source; or

(c) If sufficient funds are not provided in future approved budgets of Licensee (or from applicable federal, state, or other sources) to permit Licensee, in the exercise of its reasonable administrative discretion, to continue this Agreement, or if the program for which this Agreement was executed is abolished.

4.2. **Removal of Equipment/Restoration of Cabinet.** Within thirty (30) days' following expiration or termination of the License, at Licensee's sole cost and expense, Licensee shall (i) under the supervision and monitoring of Licensor, disconnect and remove all Licensee's Equipment and any personal property installed or placed by or for Licensee in the Cabinet and the Space that does not constitute a fixture; (ii) repair those portions of the Cabinet and the Building damaged by such removal and restore the Cabinet and Building to the same condition that existed on the Effective Date, ordinary wear and tear excepted; and (iii) surrender possession of the Cabinet in broom-clean condition. No Fees will be charged during the thirty (30) day removal period provided herein.

4.3. **Licensee's Failure to Vacate Cabinet.** If Licensee fails to vacate the Cabinet upon expiration or termination of the Term, as provided in Section 4.2 and subject to the thirty (30) day removal period provided therein, then:

(a) Licensor may disconnect all Licensee's Equipment and exercise peaceful self-help, commence legal proceedings to recover possession of the Cabinet, or use any other lawful means to remove Licensee and Licensee's Equipment and other personal property.

(b) Any of Licensee's Equipment and other personal property that is not removed following thirty (30) days after expiration of the Term shall be deemed abandoned and become the property of Licensor and Licensor shall be entitled to the proceeds of any sale by Licensor of abandoned items.

(c) Licensee shall be liable for all damages, including consequential damages, and costs sustained by Licensor resulting from Licensee's failure to vacate the Cabinet timely or otherwise to comply with this Article 4. Licensee shall also pay Licensor a "**holdover fee**" for each day that Licensee occupies the Cabinet after the thirty (30) day removal period provided in Section 4.2, above. The daily holdover fee shall be 125% of the monthly License Fees in effect at expiration or termination.

(d) This Article 4 shall not be construed to permit Licensee to hold over or to extend the Term. Until it vacates the Cabinet, Licensee shall comply with all provisions of this Agreement and the provisions of this Article 4 shall survive the expiration or termination of this Agreement.

5. **Licensee Breach of Agreement; Revocation or Suspension of License.**

5.1. **Event of Default.** A Party shall be in default if:

(a) any payment due from Licensee to Licensor on account of any amounts due under this Agreement, including late fees and any other charges, is not received by Licensor when due and Licensee has failed to cure such breach within ten (10) days after notice from Licensor of such breach.

(b) Licensee voluntarily or involuntarily files bankruptcy or makes a general assignment for the benefit of creditors.

(c) Licensee fails to remove its Equipment and other personal property and vacate the Cabinet within the time provided under Section 4.2, above.

(d) A Party is otherwise in breach of this Agreement and such violation continues unremedied for fifteen (15) days after notice of such breach is given by the non-defaulting Party.

5.2. **Remedies.**

(a) If Licensee is in default, Licensor shall have the right (without limitation of any other remedies hereunder or under applicable law or in equity) in its sole discretion, to (1) prevent or restrict Licensee's access to the Cabinet; (2) remove any Licensee's Equipment and other personal property from the Cabinet; (3) terminate or suspend any services furnished under this Agreement; (4) terminate, revoke or suspend (in whole or in part), at the sole election of Licensor, the License granted hereby upon written notice to Licensee; (5) without terminating the License, recover possession of the Cabinet through peaceful self-help, legal proceedings or any other lawful means; (6) disable Utilities to the Cabinet and Licensee's Equipment; (7) recover all damages and losses sustained as a result of Licensee's default including unpaid License Fees, the

costs of restoring the Cabinet and the Building to the condition as specified in this Agreement, and disconnect charges; or (8) exercise any rights and remedies available under applicable law, in equity or by statute. If Licensor is in default, Licensee shall have any and all rights and remedies available under applicable law, in equity or by statute.

(b) Except in the event Licensee terminates this License pursuant to Section 4.1 above, Licensee shall not be relieved from its obligation to pay the License Fees by reason of a surrender of possession, Licensor's exercise of its remedies, or otherwise unless specifically agreed to in writing by Licensor, and no taking of possession of the Cabinet by Licensor or other action on the part of Licensor shall be construed to terminate this Agreement unless a written notice of such termination is given to Licensee. If Licensee terminates this License pursuant to Section 4.1 above, Licensee will only be responsible for the Fees due and owing as of the date of termination.

(c) The remedies specified in this Section are cumulative and Licensor may exercise any or all of such remedies. All payment obligations of Licensee accruing prior to termination of this Agreement shall survive such termination.

6. **Eminent Domain.** In the event of a taking by eminent domain of any portion of the Building, or conveyance in lieu thereof (either a "**Taking**"), if such Taking results in a termination of the Lease, or is such that Licensee's Operations in the Cabinet are no longer feasible and Licensor does not exercise its Relocation right under Section 1.4(m) within 60 days after receipt of notice from Licensee that its Operations are no longer feasible, then the License shall terminate as of the date of the Taking and Fees shall be paid by Licensee to such date. Licensee shall have no claim against Licensor for the value of the unexpired Term of this Agreement or to any portion of a condemnation damages award payable to Licensor or Landlord.

7. **Damage to Cabinet.** If any part of the Building is damaged, including by fire or other casualty, disrepair or defects, such that Licensee's Operations in the Cabinet are no longer feasible ("**Damage**"), Licensee shall give notice to Licensor of such damage ("**Licensee's Notice**"). Within sixty (60) days after receipt of such notice, Licensor may elect by notice to Licensee (a) to remedy the Damage so that Licensee may resume its Operations in the Cabinet; (b) relocate Licensee pursuant to Section 1.4(m) in which case the Relocation Area shall become the Cabinet; or (c) terminate the License and this Agreement. If Licensor fails to give notice of its election within such time period, then at any time prior to Licensor giving such notice Licensee may terminate the License upon notice to Licensor effective as of the date of Licensee's Notice, which shall be the sole remedy available to Licensee. After notifying Licensor of the Damage, Licensee shall not be required to pay the License Fees until the Damage is remedied or Licensee is relocated, provided, however, the License Fees shall not abate or be suspended and the Licensee shall not be entitled to terminate this Agreement on account of such damage if such damage is caused by the negligence or willful or reckless act or omission of Licensee, its employees, agents, contractors, invitees or customers.

8. **Limitation of Liability.**

8.1. In no event shall Licensor, its members, managers, officers, employees, affiliates, subcontractors, consultants, representatives or agents ("**Licensor Parties**") be liable to Licensee or to any of its members, partners, shareholders, trustees, beneficiaries, directors, officers, managers, employees, affiliates, clients, invitees, subcontractors, consultants, representatives or agents ("**Licensee Parties**") for any action, claim, loss, damage, demand, liability, penalty, fine, lien, obligation, cost, expense (including attorneys' fees and court costs and costs of other dispute resolution proceedings), lost profits or lost revenue, damages for which Licensee may be liable to Licensee Associates, business interruption or other special damages, incidental damages, exemplary damages, punitive damages, consequential damages, or other damages of any nature, whether foreseeable or not and regardless of whether Licensor was advised of the possibility of such damages (collectively referred to as a "**Loss**") to any person or property arising out of or in connection with or related to: (a) Force Majeure (as defined in Section 14.4); (b) the licensing of any space within the Space or the leasing by Landlord of space in the Building to whomever or for whatever use may be allowed by Licensor or Landlord; (c) interruption, variation, or failure of utility services or power; (d) repairs, maintenance or alterations of any part of the Space, the Cabinet or the Building that are not completed within a commercially reasonable time period; or (i) Licensor's operation, use, management, licensing, maintenance, repair, renovation, alteration or any other activities or omissions relating to the Space, the Cabinet, the Building or this Agreement except to the extent any Loss is caused by or results from the negligence or willful misconduct of Licensor.

8.2. **NOTWITHSTANDING ANYTHING TO THE CONTRARY PROVIDED IN THIS AGREEMENT, IT IS SPECIFICALLY UNDERSTOOD AND AGREED, SUCH AGREEMENT BEING A PRIMARY CONSIDERATION FOR THE EXECUTION OF THIS AGREEMENT BY LICENSOR, THAT IF LICENSEE RECOVERS A MONEY JUDGMENT AGAINST LICENSOR, SUCH JUDGMENT SHALL BE SATISFIED ONLY OUT OF LICENSOR'S ASSETS AS THE SAME MAY THEN BE ENCUMBERED, AND NEITHER LICENSOR NOR ANY LICENSOR PARTIES SHALL BE LIABLE FOR ANY DEFICIENCY.**

8.3. Under no circumstances shall any present or future officer, manager or member of Licensor be liable for the performance of Licensor's obligations under this Agreement. The limitations of liability contained in this Article 8 shall apply

equally and inure to the benefit of Licensor's present and future Licensor Parties and their successors and assigns.

8.4. **EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY SHALL BE ENTITLED TO, AND EACH OF LICENSOR AND LICENSEE HEREBY WAIVES ANY AND ALL RIGHTS TO RECOVER, CONSEQUENTIAL, INCIDENTAL, INDIRECT AND PUNITIVE OR EXEMPLARY DAMAGES, HOWEVER ARISING, WHETHER IN CONTRACT, IN TORT, OR OTHERWISE, UNDER OR WITH RESPECT TO ANY ACTION TAKEN IN CONNECTION WITH THIS AGREEMENT (BUT THIS SHALL NOT LIMIT THE INDEMNITIES OF THE PARTIES CONTAINED IN THIS AGREEMENT WITH RESPECT TO THIRD PARTY CLAIMS).**

9. **Liability Limitations.**

9.1. **Risk of Loss.** Provided Licensor maintains commercially reasonable security measures with respect to access to the Building, Licensee assumes full risk of loss or damage to Licensee's Equipment and any personal property and equipment owned by third parties and placed in the Building by or at the direction of Licensee, whether located in the Cabinet or elsewhere in the Building. Licensor shall have no responsibility whatsoever to Licensee for loss or damage to Equipment or for loss of business resulting from loss or damage due to any causes other than the negligence or willful misconduct of Licensor. The foregoing disclaimer of responsibility of Licensor includes loss or damage caused by acts of third parties, and Licensor shall have no obligation to verify the right of any person claiming access to the Cabinet or to Licensee's Equipment placed elsewhere in the Building.

9.2. **Indemnity.**

(a) Subject to the limits of the Oregon Constitution and the Oregon Tort Claim Act, Licensee hereby indemnifies and holds Licensor harmless from and against any and all liabilities, claims, demands, costs and expenses of every kind and nature arising from any Loss caused in part or in whole by the negligent act or omission of Licensee or any Licensee Parties or when such Loss arises from any breach or default in the performance of any obligation on Licensee's part to be performed under the terms of this Agreement, or from any act or negligence of Licensee or any Licensee Parties (including reasonable attorneys' fees and expenses incurred in the defense of any such claim or any action or proceeding brought thereon) except to the extent caused by the negligence or willful misconduct of Licensor.

(b) Licensor hereby indemnifies and holds Licensee harmless from and against any and all liabilities, claims, demands, costs and expenses of every kind and nature arising from any Loss caused in part or in whole by the negligent act or omission of Licensor or any Licensor Parties or when such Loss arises from any breach or default in the performance of any obligation on Licensor's part to be performed under the terms of this Agreement, or from any act or negligence of Licensor or any Licensor Parties (including reasonable attorneys' fees and expenses incurred in the defense of any such claim or any action or proceeding brought thereon) except to the extent caused by the negligence or willful misconduct of Licensee.

10. **Insurance.** At all times during the term of this License, both Parties shall maintain sufficient insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.

11. **No Property Interest; Sole Use of Cabinet by Licensee; No Assignment or Sub-License.** Licensee acknowledges that the rights granted to Licensee hereunder do not constitute an easement, lease or tenancy of any portion of the Cabinet or the Building but only a license to occupy the Cabinet. Licensee shall not assign, mortgage, sub-license, encumber or otherwise transfer its rights hereunder directly or indirectly, including by a transfer of all or any portion of the ownership interests in or assets of Licensee, without Licensor's prior written consent, which consent may be withheld, conditioned or delayed in Licensor's sole and absolute discretion. Licensee further agrees that, without Licensor's written consent, neither the Space nor the Cabinet nor any part thereof shall be used or occupied, nor permitted to be used nor occupied, by any entity (including any affiliated entity) other than Licensee. This Agreement shall not be recorded and recording of it shall render Licensee in default without notice. By execution of this Agreement, Licensor expressly consents to Licensee will providing service for entities in Clackamas County for transport to the 910 Telecom building in Denver. As part of this service, the entity may request to have equipment placed in the rack that takes up no more than 4U of space. Any installation of such equipment will be subject to the applicable installation Fee set forth in Section 3.2 above.

12. **Subordination and Attornment.** All rights of Licensee hereunder are and shall be subject and subordinate in all respects to every deed of trust, mortgage or other security instrument or any ground lease, master lease, or primary lease, that now or hereafter covers all or any part of the Cabinet, the Space or the Building. This Section shall be self-operative, and no further instrument of subordination shall be required. Nonetheless, in confirmation of such subordination, Licensee shall promptly execute, acknowledge and deliver any instrument that Licensor or Landlord may reasonably request to evidence such subordination. Licensee shall attorn to any party succeeding to Licensor's interest in the Space and shall provide agreements confirming such attornment as the succeeding party may request. Licensee shall pay the Fees and other sums due and payable by Licensee under this Agreement to that successor when requested. A mortgagee succeeding to the interest of Licensor shall not be liable for any act or omission of a Licensor or bound by any modification of this Agreement not approved

by that mortgagee. When requested by Licensor or Landlord, Licensee shall execute, acknowledge and deliver estoppel statements on the status of the License.

13. **Assignment by Licensor/Termination of License by Licensor.** Licensor may freely sell, transfer and assign its right, title and interest in the Cabinet and the Space and assign all of its rights, duties and obligations hereunder (“*Transfer*”). Upon such Transfer, the transferee shall be deemed to have fully assumed the License and be liable for all obligations of Licensor that first arise after the Transfer and Licensor shall be free of all liabilities and obligations under this Agreement except those accruing prior to the Transfer.

14. **General Provisions.**

14.1. **No Joint Venture.** Neither Party is authorized to assume or create any obligation on behalf of, in the name of, or binding upon the other Party, nor shall this Agreement in any way create, give rise to, or be deemed a joint venture or partnership between the Parties.

14.2. **Signs.** Licensee shall place no signs or marking of any kind (except for a sign or other identification affixed to Licensee’s Equipment and reasonably necessary to identify Licensee’s Equipment, and which shall include a list of emergency contacts with telephone numbers), anywhere in the Building.

14.3. **Solicitation.** Licensee shall not, and shall make sure that its employees, independent contractors, agents and any other individuals accessing the Building, the Space and the Cabinet from time to time on behalf of the Licensee (collectively, “*Licensee Representatives*”) shall not, during the Term of this Agreement and for a period of twelve (12) months thereafter, directly or indirectly (i) solicit, employ, offer to employ or engage as a consultant, any employee of Licensor or Landlord; or (ii) pay or offer to pay any employee of Licensor or Landlord any compensation (in cash or in kind), gifts or entertainment as an inducement (stated or implied) to perform any services in the Building. This provision shall survive the expiration or earlier termination of this Agreement.

14.4. **Force Majeure.** Licensor shall not be liable for any delay or failure to perform hereunder due to acts of God including fire, explosion, flood, rain or wind storm, earthquake, tornado, hurricane or other weather event or natural disaster; accident or physical calamity; vandalism or other criminal activity; cable or fiber cuts, utility curtailments, power failure (including failure of generators, batteries and other sources of power, whether primary or back-up); any court order or local ordinance, state or federal law or regulation of any department, agency, commission, or other instrumentality of one or more governmental agencies that are issued for reasons beyond Licensor’s reasonable control; national emergency, civil disturbances, insurrection, riot, war, or acts of terrorism; strike, labor disputes or shortages, lockout or work stoppage, or other labor difficulties, shortages of equipment or supplies, unavailability of transportation; or any other event beyond Licensor’s reasonable control whether similar or dissimilar to those enumerated above (each a “*Force Majeure*” event).

14.5. **No Waiver; Binding Effect; Amendment; Merger.** The failure of Licensor to enforce or insist upon compliance with any of the provisions of this Agreement or Licensor Rules or the waiver thereof in any instance shall not be construed as a waiver or relinquishment of any other instance, or of any other provision, of this Agreement or the Licensor Rules. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, except as provided in Section 11. This Agreement may not be amended except by an instrument in writing, executed by the Parties. This Agreement supersedes and merges all prior agreements, promises, understandings, statements, representations, warranties, indemnities and covenants and all inducements to the making of this Agreement relied upon by either Party, whether written or oral, and embodies the Parties’ complete and entire agreement with respect to the subject matter hereof. No representation, statement or agreement, oral or written, made before the execution of this Agreement and no course of dealings or conduct between the Parties shall vary or modify the written terms hereof in any way whatsoever.

14.6. **Choice of Law; Severability.** This Agreement shall be in all respects governed and construed and enforced in accordance with the law of the State of Colorado, including all matters of construction, validity and performance, without regard to its conflicts of law principles. If any term or provision of this Agreement is determined to be illegal, unenforceable or invalid in whole or in part, for any reason, such illegal, unenforceable or invalid provision or part shall be replaced by a valid and enforceable provision as similar as possible to the original.

14.7. **Representation of Authority.** Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party’s obligations hereunder have been duly authorized, and that this Agreement is a valid and legal agreement binding on each Party and enforceable in accordance with its terms.

14.8. **Counterparts; Agreement by Facsimile or Electronic Transmission.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original but all of which, taken together, shall constitute one and the same instrument. Each Party agrees that the execution and delivery of this Agreement by facsimile or electronic signature shall have the same force and effect as delivery of original signatures.

14.9. **Notices.** Except as otherwise specified, all notices or consents required or permitted to be given hereunder

shall be in writing and shall be deemed to be duly given when (a) delivered by hand (with written confirmation of receipt), (b) upon receipt or three days after being mailed by certified mail, return receipt requested, (c) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested) (d) sent by telecopier (with written confirmation of receipt), or (e) sent by electronic mail, provided in case of delivery under (d) or (e) that a copy is also mailed by certified mail, return receipt requested, in each case to Licensor's and Licensee's Addresses as shown on page one hereof or to such other addresses and telecopier numbers as a Party may designate by notice to the other Party.

14.10. **Use of Names.** Licensee grants to Licensor a license to use Licensee's name and logo in connection with Licensor's marketing and publicity efforts, including use in press releases, brochures and advertising, without payment by Licensor of any royalty or other fee. In advertising or other publicity, without the prior written consent of the Landlord, DGE Management, LLC, Licensee shall use neither the name of the Building, except as the address of its business, nor use any pictures or images of the Building, nor shall Licensee misrepresent the name of the Building. Licensee shall not represent that it operates the Meet-Me-Room or Meet-Me-Points in the Building.

14.11. **Competition.** Licensee recognizes, acknowledges, and agrees that Licensor currently licenses space to entities that compete directly or indirectly with Licensee and that Licensor has and reserves the right to enter into license agreements and other agreements in the future with entities that compete directly or indirectly with Licensee.

14.12. **Time of the Essence.** Time is of the essence in all things to be done, including all payments to be made by Licensee under this Agreement.

14.13. **Incorporation of Exhibits.** All Exhibits attached to this Agreement are incorporated by this reference.

14.14. **Construction.** Headings are for convenience of reference and shall not be considered in construing this Agreement. Use of the singular number shall include the plural and use of one gender shall include the other genders as appropriate in context. "**Including**" as used herein shall be construed in each case to mean including without limitation.

14.15. **Deliveries.** Licensee assumes full responsibility and liability for any delivery services, US Mail, or freight services deliveries made to the Premises, including any deliveries dropped off in the hallway or management office of the Building

15. **Resolution of Disputes.** Licensor and Licensee shall endeavor in good faith to informally resolve any disputes which may arise under this Agreement.

16. **OFAC Representations.** Licensee represents and warrants to Licensor that neither Licensee nor any Licensee Parties and none of their respective employees, officers, directors, representatives or agents, is a person or entity with whom U.S. persons or entities are restricted from doing business with under regulations of the Office of Foreign Assets Control ("**OFAC**") of the United States Department of Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 23, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism) or other governmental action. Licensee further represents and warrants to Licensor that Licensee shall at all times during the Term of this Agreement (including any extensions or renewals) remain in compliance with the regulations of the OFAC of the United States Department of Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 23, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism) or other governmental action.

17. **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.

18. **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.

19. **Attorney Fees.** In the event any action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover reasonable attorney fees and costs from the other party.

20. **Public Contracting Provisions.** The provisions of Oregon public contracting law, ORS 279B.020 through 279B.235, to the extent applicable, are incorporated herein by this reference.

21. **Environmental Matters.**

21.1. **Licensee's Obligations.**

(a) Licensee shall not cause or permit the use, treatment, storage or disposal of any Hazardous Materials or

Hazardous Waste in, on or about any part of the Building except small amounts of Hazardous Materials generally found in normal office and telecommunication equipment environments which shall be used, stored, transported and disposed of in compliance with all Environmental Laws.

(b) Subject to the limits of the Oregon Constitution and the Oregon Tort Claim Act, Licensee shall defend, indemnify and hold Licensor and the Licensor Parties harmless from and against all direct claims, costs, expenses, liabilities and penalties, including reasonable attorneys' and consultants' fees and costs arising out of or in connection with Licensee's breach of its obligation under Section 21.1(a). The obligations under this Section will survive termination of this Agreement.

(c) For purposes of this Article, "**Hazardous Materials**" means asbestos, explosives, radioactive materials, and any other materials or substances regulated under the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601-9657 ("CERCLA"), the Resource Conservation Recovery Act of 1976, 42 U.S.C. Sec. 6901-6987; the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq., or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning protection of the environment or public health now or at any time hereafter in effect (collectively, "**Environmental Laws**"). "**Hazardous Waste**" means hazardous waste as defined under the Resource Conservation Recovery Act of 1976, 42 U.S.C. Sec. 6901-6987 as well as any petroleum or petroleum-based product, including, but not limited to, waste oil.

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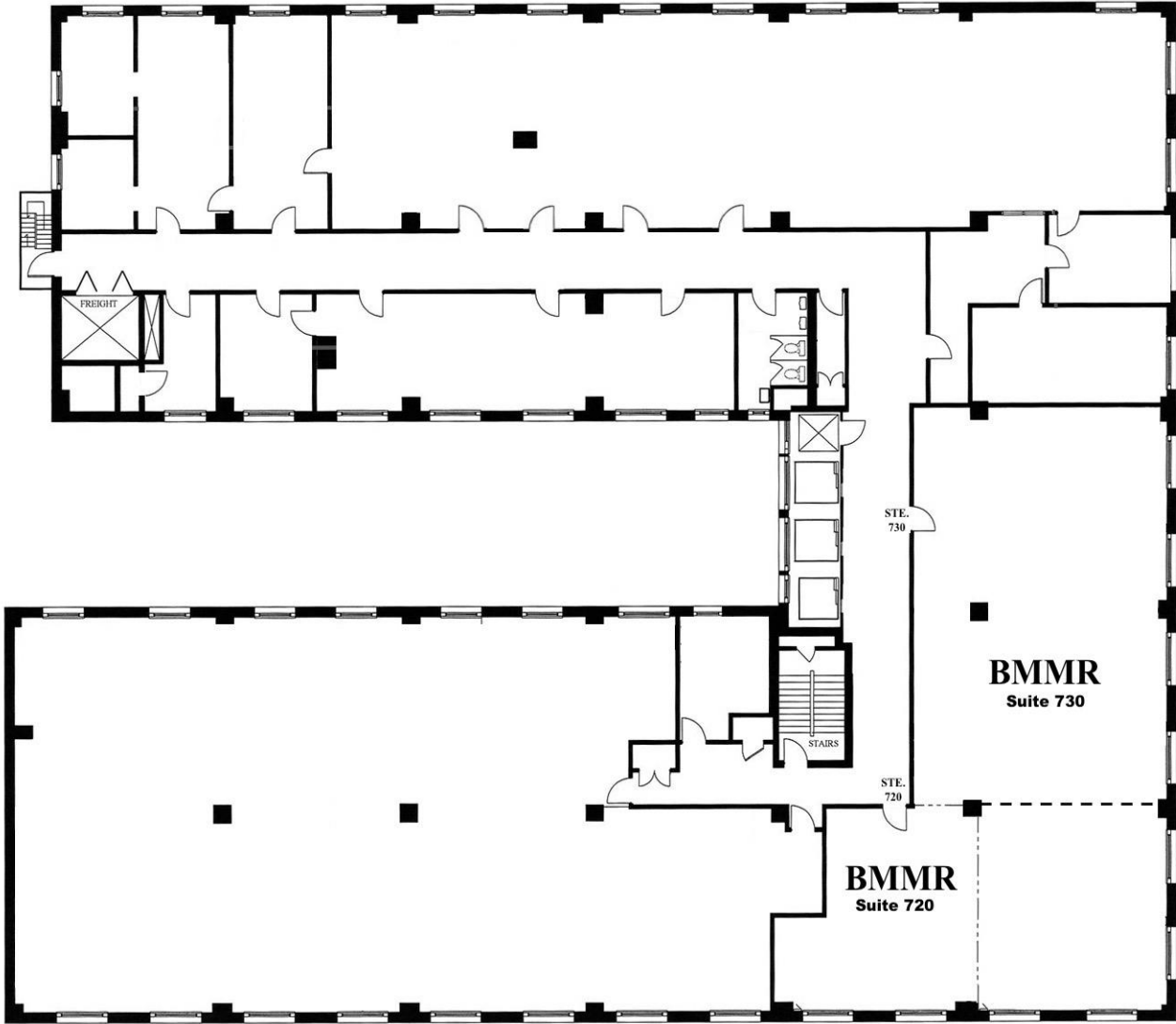
LANDLORD APPROVAL

The undersigned represents and warrants that it owns the Denver Gas and Electric Building and hereby recognizes and approves the foregoing Agreement dated _____, 2021 between DGEB MMR, LLC, a Colorado limited liability company, as Licensor and _____, as Licensee.

DGEB MANAGEMENT, LLC
a Colorado limited liability company

By: _____
Jim Latisis, General Manager

EXHIBIT A
LOCATION OF THE SPACE



SEVENTH FLOOR



910-15th Street, Suite 500, Denver, Colorado 80202 | Denver Gas & Electric Building

Licensee's acknowledgement _____

EXHIBIT B

FEES

Description - Clackamas County / CBX Network	Monthly Recurring Charge (MRC)	Non-Recurring Charge (NRC)
Space:		
Suite 730 - 701.15 - 1 Full Cabinet (42 RU)	\$750.00	
Power:		
True A/B 40AMP (15A/15B) AC Power @ \$19.50 Per Amp (208v) Calc: A Side = (15A * \$13.00 = \$195.00) + B Side = (15A * \$6.50 = \$97.50)	\$292.50	
Connectivity (Per Pair): Billed to Requesting Customer		
Cross Connection(s) - Including Rack-to-Rack	\$150.00	
Cross Connection(s) - Installation		\$400.00
Cross Connection(s) - Disconnection		\$150.00
Remote Hands:		
Normal Hours: 7AM to 4PM MT - per hour (1 hour minimum)		\$100.00
After Hours: 4PM to 7AM MT - per hour (2 hour minimum)		\$200.00

Licensee's acknowledgement _____

EXHIBIT C
LICENSOR RULES

The following are the Licensor Rules referred to in this Agreement with which Licensee agrees to comply:

- (a) Licensee shall not leave any trash or empty boxes in the Cabinet or the Space; any trash or empty boxes not properly disposed of by Licensee are subject to removal by Licensor with any associated charges to be billed and invoiced to Licensee.
- (b) No food or beverages of any kind shall be permitted in or around the Cabinet.
- (c) Licensee shall ensure that the Licensee's ingress to and egress from and activities within the Cabinet and the Space, as well as the Licensee Equipment and property and area surrounding Licensee's Cabinet do not pose safety hazards to any person or equipment or area of any other licensee of Licensor or any occupant of the Building.
- (d) Licensee shall promptly remove any electrical hazards and trip and slip hazards.
- (e) No Licensee Equipment or property of any kind shall protrude beyond the Cabinet nor shall any Licensee Equipment or property extend into, encroach upon or otherwise interfere with the Cabinet of any other licensee of Licensor.
- (f) Licensee shall not store anything outside of the Cabinet.
- (g) Licensee shall not jeopardize Licensor's ability to conduct its facilities operations or any other activities of any licensee of Licensor.
- (h) Combustible or hazardous material may not be stored in the Cabinet or elsewhere in the Space or the Building.
- (i) Licensee shall make reasonable commercial efforts to ensure that the Licensee's Equipment and property will not interfere in any way with the equipment, property or use of the Space by other licensees of Licensor or by occupants of the Building.
- (j) Licensee agrees to take precautions to protect the Space and nearby equipment belonging to or used by other licensees of Licensor while performing any work in the Cabinet and the Space.
- (k) No windows shall be opened in any part of the Cabinet or the Space or any part of the Building without the prior written permission of the Licensor.
- (l) Licensee shall not allow, permit or suffer any noise, smoke or odor to escape from the Cabinet, or any noise in excess of local zoning requirements or industry standards.

Licensee's acknowledgement _____

EXHIBIT D

ACCESS AND PLANS FOR WORK REQUEST FORM

1. Clackamas County / CBX Networks ("**Licensee**") requests permission to access another location within the Denver Gas and Electric Building make a cross connection within the DGEB MMR Space or perform new work within Cabinet on (*date*)_at approximately_____(*am/pm*).
2. The purpose of such Access or Plans for Work is: _____

_____.
3. Have Plans and Specification been submitted to Licensor? Yes No

Licensee accepts sole responsibility for all costs, expenses and damages ("*Costs*") related to the proposed entry into a tenant's leased premises, releases the Licensor, DGEB Management, LLC, and their members, managers, employees and agents (the "*Indemnified Parties*"), from any liability for such Costs, and indemnifies the Indemnified Parties for any amounts claimed to be due from them as a result of Licensee's entry into a tenant's leased premises or another licensee's cabinet or licensed area.

Licensee _____

By: _____

Date: _____

Name: _____

Title: _____

Licensor approves Access or Work Plans to be performed on the premises? Yes No

By: DGEB MMR, LLC

Date: _____

Name: _____

Title: _____

Licensee's acknowledgement _____

Licensee's acknowledgement _____

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Release of a Security Deposit to Oregon Beverage Recycling Cooperative as Required in a
Post-Closing Escrow and Development Agreement

Purpose/Outcomes	Releases a security deposit that was held in escrow until Oregon Beverage Recycling Cooperative (OBRC) fulfilled obligations outlined in a Post-Closing Escrow and Development Agreement
Dollar Amount and Fiscal Impact	\$125,000 will be disbursed from the escrow account to OBRC
Funding Source	Not applicable
Duration	The release is permanent
Previous Board Action	The Post-Closing Escrow and Development Agreement was signed by the Board on April 18, 2019
Strategic Plan Alignment	Grow a vibrant economy
Procurement Review	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
Counsel Review	Reviewed and Approved by Counsel on July 6, 2021 NB
Contact Person	David Queener, Development Agency Senior Project Planner 503.742.4322

Background:

Oregon Beverage Recycling Cooperative (OBRC) acquired 12.68 acres of industrial land owned by the Development Agency in April 2019. Upon closing on the sale, a Post-Closing Escrow and Development Agreement was executed that required OBRC to deposit \$125,000 into escrow. Those funds would be held until OBRC met conditions set out in the Agreement. This included:

- Construction of a building with a floor area ratio of not less than .29
- Complete construction of the improvements within 24 months of executing the Agreement
- Provide workers at the new facility equal to or greater than one job per 1,100 square feet of building floor area
- Provide average annual wages for all employees equal to or greater than the National Average Mean Wage

OBRC has demonstrated that they have met each of the conditions and has submitted a request to release the security deposit. Upon disbursement of the funds, the Post-Closing Escrow and Development Agreement will no longer be in effect.

Recommendation:

Staff respectfully recommends that the Board approve and execute the documents necessary to release the funds held in escrow to Oregon Beverage Recycling Cooperative.

Sincerely,

David Queener

David Queener
Development Agency Program Supervisor

POST-CLOSING ESCROW AND DEVELOPMENT AGREEMENT

THIS POST-CLOSING ESCROW AND DEVELOPMENT AGREEMENT (this "Agreement") is entered into by and among **CLACKAMAS COUNTY DEVELOPMENT AGENCY**, the Urban Renewal Agency of Clackamas County, a corporate body politic (the "Agency") and **OREGON BEVERAGE RECYCLING COOPERATIVE**, an Oregon domestic cooperative ("Developer"), and Chicago Title Insurance Company of Oregon ("Escrow Holder"). The latest date on which this Agreement is signed by Agency, Developer and Escrow Holder (as indicated below by their signatures herein) is referred to in this Agreement as the "Effective Date."

RECITALS

A. Pursuant to that Disposition Agreement effective November 22, 2017 (the "DA"), Developer acquired from Agency that certain real property comprised of approximately 12.68 acres (and approximately 9.36 net developable acres) of land owned by the Agency located east of SE 120th Avenue and south of Capps Road in Clackamas County, Oregon, as more particularly described in Exhibit "B" of the DA (the "Property"). All capitalized terms used in this Agreement and not otherwise defined herein shall have their meaning as set forth in the DA.

B. In connection with the DA and in furtherance of the Plan, Agency desires that Developer construct the Building Improvements (defined below), and Developer wishes to do so, on and subject to the terms and conditions of this Agreement. As used herein, the "Building Improvements" means the industrial building and associated improvements on the Property as described in Exhibit "A," attached hereto.

C. In addition, the parties desire to establish at Closing an escrow account (the "Account") in the total amount of One Hundred Twenty-Five Thousand and No/100 Dollars (\$125,000.00) (the "Funds"), payable at Closing by the developer, to be held by the Escrow Holder as security for satisfaction of the obligation of the Developer to complete the Development Goals, as provided herein.

D. Escrow Holder has agreed to serve as the escrow agent for the Account and to disburse the amounts deposited with it in accordance with the terms of this Agreement.

AGREEMENT

1. DEVELOPMENT GOALS. Subject to the terms and conditions of this Agreement, Developer will pursue satisfaction of the following development goals relating to the development of the Property (collectively, the "Development Goals") within the specified time periods:

1.1 Building Improvements; Floor Area Ratio Goal. Subject to the terms and conditions of this Agreement, Developer will pursue Substantial Completion of the Building Improvements in accordance with and within the limitations specified in Exhibit "A," "Scope of Development," attached hereto and made a part hereof, within twenty-four (24) months after the Effective Date. As used in this Agreement, "Substantial Completion" of a work or improvement

shall mean that (i) the applicable work or improvement has been completed to the point that it can be used for its intended purpose and the only incomplete items are minor or insubstantial details typically found in a so-called "punch list" and (ii) the final governmental permit or approval (as applicable) has been received with respect to such work or improvement. The Developer agrees, at its own cost and expense, to install or construct, or cause to be installed or constructed, the required Building Improvements in accordance with the terms of this Agreement and with all applicable specifications, standards and codes and requirements, including those of the County and the State of Oregon. The Building Improvements shall provide a floor area ratio (as defined in Clackamas County Code Section 11.03.020(V)) of not less than 0.29 or as agreed by Agency and Developer based on reasonable standards relating to the building size layout. The goal under this Section 1.1 shall be deemed met upon Substantial Completion of the Building Improvements providing the floor area ratio in accordance with the foregoing.

1.2 **Job Quantity Goal.** Within twelve (12) months after the Building Improvements are fully occupied by tenant(s) or owners, the ratio of total number of workers employed at the building to the total square feet of floor area in such building shall be equal to or greater than 1 worker per 1100 square feet of building floor area. For example, if the building is a total of 250,000 square feet of floor area, the minimum number of workers to satisfy this goal is 227. The foregoing ratio shall be deemed satisfied for the Building Improvements upon the first instance of such ratio being met at any time during the 12-month period after the Building Improvements are fully occupied by tenant(s) or owners. The goal under this Section 1.2 shall be deemed satisfied when all of Building Improvements have so satisfied the ratio within the applicable 12-month period.

1.3 **Wage Goal.** Within twelve (12) months after the Building Improvements are fully occupied by tenant(s) and/or owners, the average annual wages of all employees in such building, excluding senior executive positions (e.g., CEO, COO, CFO, etc.), shall be equal to or greater than the National Annual Mean Wage, as determined by the official publication of the Bureau of Labor Statistics available as of the Effective Date, as provided below. The goal under this Section 1.3 shall be deemed satisfied upon the first instance of the foregoing minimum average annual wages of the tenant(s) or owners being met at any time during the 12-month period. The applicable National Annual Mean Wage shall be based on the major occupational group used by the Bureau of Labor Statistics (Occupational Employment Statistics) for Developer: Code 423930. For purposes of this goal, "employer" shall refer to the initial tenant(s) and/or owner(s) of each building; and "employees" shall mean workers who are paid through the normal payroll system of the employer, for whom Federal Insurance Contribution Act ("FICA"), and federal and state income taxes are deducted from his or her gross wages and then forwarded to the appropriate agencies by employer on behalf of the worker, as to whom the employer pays federal and state unemployment insurance, and as to whom the employer contributes to FICA, and shall not include workers hired through an agency to provide temporary services to employer or workers acting as independent contractors. For purposes of audit, the Agency intends to seek relevant employee information from the Oregon Employment Department. If the Agency is not able to obtain information from the Oregon Employment Department to determine the relevant wages, the Agency may request that Developer seek such information from each employer as provided in Section 1.4 below.

1.4 **Supporting Information.** Developer will use commercially reasonable efforts to include the following provision (or substantially similar provision) in its lease or sale agreement with each occupant of the Building Improvements:

"Upon request of [Developer] or [Agency] from time to time during the first fifteen (15) months of full occupancy, [Tenant/Owner] agrees to certify in writing the total number of employees and average annual wages of employees working at the [Premises/Property] as of the date(s) requested, provided that the average annual wages shall exclude the wages of senior executive positions (e.g., CEO, COO, CFO, etc.)."

If any occupant is unwilling to agree to such provision, Developer will use commercially reasonable efforts to obtain such information from the occupant as it is willing to provide with respect to the above Development Goals. The parties may rely upon such information provided by the occupants of the Building Improvements, together with all other reasonably reliable data and estimates, for purposes of evidencing satisfaction with the Development Goals under Section 1.2 and Section 1.3 above.

2. **CONSTRUCTION SCHEDULE.** Developer shall use commercially reasonable efforts to begin and complete all construction and development of the Building Improvements within the time specified in the Schedule of Performance, specified in **Exhibit "B,"** attached hereto and made a part hereof, except as otherwise permitted herein.

3. **GOVERNMENTAL PERMITS.** Before commencement of construction or development of any buildings, structures or other works or improvements in connection with the Building Improvements upon the Property, the Developer shall, at its own expense, secure or cause to be secured, any and all land use, construction, and other permits which may be required by any governmental agency. The Agency shall cooperate with the Developer and permitting agencies in obtaining the necessary permits.

4. **TERM.** The term of this Agreement shall commence on the Effective Date and, except as otherwise provided herein, end on the date that all funds in the Account have been disbursed in accordance with the terms of this Agreement.

5. **ACCOUNT.**

5.1 **Appointment.** Agency and Developer appoint Escrow Holder to receive and hold the Funds in the Account for the benefit of Agency and Developer and to disburse the funds in the Account in accordance with the terms of this Agreement. Escrow Holder accepts that appointment.

5.2 **Account Deposit.** On the date hereof, Developer shall deposit the Funds in the Account. Until disbursed as provided herein, all funds in the Account (as may vary from time to time, the "Account Funds" or the "Security Deposit") shall be held by the Escrow Holder in accordance with the terms of this Agreement.

5.3 **Investment of Funds.** Escrow Holder shall invest the Account Funds in an interest-bearing account fully insured by the Federal Deposit Insurance Corporation. All interest

earned on Account Funds shall automatically be added to and become part of the funds in the Account.

5.4 **Disbursement of Account Funds.** Except as otherwise expressly provided in this paragraph, upon Substantial Completion of the Building Improvements and satisfaction of all of the other Development Goals set forth above in Section 1, all Funds shall be disbursed to Developer following written request by Developer that is approved in writing by Agency, which approval will not be unreasonably withheld, conditioned or delayed. For purposes of this provision, the Agency's approval is not unreasonably withheld where a tenant or owner of property fails to confirm in writing the total number of employees and average annual wages of employees working at the Property and the Agency cannot otherwise obtain such employee information from the Oregon Employment Department or other reasonably reliable source, for purposes of determining if the Development Goals have been satisfied. The sole condition for disbursement of the Security Deposit to Developer is the Substantial Completion of the Building Improvements and satisfaction of all of the other Development Goals set forth above in Section 1. Notwithstanding the foregoing, if the Building Improvements are not substantially completed within twenty-four (24) months after the Effective Date, subject to delays due to force majeure or other causes beyond the reasonable control of Developer, or if the Developer fails to satisfy any of the remaining Development Goals by the deadlines set forth in Section 1.2 or Section 1.3, the entire Security Deposit shall be disbursed to Agency, subject to the written approval of Developer, which approval will not be unreasonably withheld, conditioned or delayed. The sole condition for disbursement of the Security Deposit to Agency is the failure to achieve any of the deadlines associated with the Development Goals set forth in Section 1 by the foregoing deadlines. The Security Deposit shall be disbursed by a single payment, and shall not be paid on a pro rata basis or otherwise disbursed in installments.

5.5 **Disbursements.** Escrow Holder shall disburse to the payee within three (3) business days after receipt of a written request of a party, approved in writing by the other party. With respect to any disbursement request of a party that is subject to the approval of the other party, such approval shall be deemed given if the other party fails to give notice of disapproval to the requesting party within twenty (20) business days of receipt of the request.

5.6 **Termination of Account.** The Account shall be terminated upon disbursement of all Account Funds as provided in this Agreement.

6. **LIMITATION OF LIABILITY.** Notwithstanding any other provision herein, the liability of either party under this Agreement shall be strictly limited solely to a sum equal to the Account Funds as provided by this Agreement. In no event shall either party have any obligations or liability whatsoever with respect to this Agreement in excess of the Account Funds or with respect to any assets of either party (other than the Account Funds). Except solely for either party's right to disbursement of the Account Funds as provided in this Agreement, both parties hereby waive, release, covenant not to sue and forever discharge the other party and its elected officials, officers, directors, shareholders, employees, affiliates, agents, successors and assigns of, for, from and against any and all Claims (defined below) arising from or related to this Agreement, whether such Claims relate to the period before, on or after the Closing Date. As used herein, "**Claims**" shall mean any and all actual or threatened claims, detriments, rights, remediation, counterclaims, liens, controversies, obligations, agreements, executions, debts,



covenants, promises, suits, causes of action, actions, demands, liabilities, losses, damages, assessments, judgments, fines, penalties, threats, sums of money, accounts, costs, expenses, known or unknown, direct or indirect, at law or in equity (including, without limitation, reasonable attorneys' fees and other professional fees of attorneys and professionals selected by Developer), whether incurred in connection with any investigation, non-judicial, quasi-judicial, judicial, mediative, arbitative, or administrative actions or proceedings or otherwise (including pretrial, trial, appellate, administrative, bankruptcy or insolvency proceedings) or in settlement or in any other proceeding and whether or not suit was filed thereon. The provisions of this Section 6 shall survive the expiration or termination of this Agreement.

7. **ESCROW HOLDER.**

7.1 **Duties of Escrow Holder.** Escrow Holder shall act with reasonable diligence in performing its duties hereunder. Agency or Developer may at any time, from time to time, require an accounting of all monies deposited into and remitted from the Account. Within ten (10) days after the end of each calendar quarter, Escrow Holder shall send to Agency and Developer a statement showing all deposits, withdrawals, and interest credits of the Account for the previous calendar quarter, as well as the current balance of the Account.

7.2 **Claims of Escrow Holder.** Escrow Holder shall have no claim against the Account or Account Funds and relinquishes any right or claim it may have against the Account and such Account Funds.

7.3 **Resignation of Escrow Holder.**

(a) Escrow Holder may resign as escrow agent hereunder at any time by giving sixty (60) days prior written notice to Agency and Developer. In such event Agency shall select a new escrow agent doing business in Portland, Oregon, whose selection shall be subject to the reasonable approval of Developer. Promptly after selection of the new escrow agent, Escrow Holder shall transfer over to the new escrow agent all of the funds in the Account and shall be relieved of any duties hereunder arising thereafter except for the obligation to give the reports required hereunder with respect to any prior or current periods. Contemporaneously with such transfer, Escrow Holder shall deliver to Agency and Developer a report showing the amount transferred. The new escrow agent shall execute and deliver an instrument accepting its appointment and the new escrow agent shall be vested with all of the estates, properties, rights, powers and duties of the predecessor escrow agent as if originally named as Escrow Holder.

(b) If Escrow Holder resigns upon written notice as provided for hereinabove and successor escrow agent is not appointed within thirty (30) days after such notice, then Escrow Holder may petition to an Oregon court of competent jurisdiction to name a successor and agrees to perform its duties hereunder until its successor is named.

7.4 **Instructions to Escrow Holder.** All instructions to Escrow Holder shall be submitted in writing, signed by an authorized representative of the submitting party, with a simultaneous copy to the other party.

7.5 **Escrow Fees.** Escrow fees shall be shared equally by Developer and the Agency.

8. **DEVELOPER OBLIGATIONS UNDER THE PLAN.** Pursuant to Section 715 and 745 of the Plan, Developer agrees as follows:

8.1 The Property shall be used for the purposes designated in the Plan.

8.2 Developer shall obtain necessary approvals for the Building Improvements from all federal, state and/or local agencies that may have jurisdiction on the Property and the Building Improvements to be developed thereon.

8.3 The development of the Property shall be in accord with the regulations prescribed in the County's Comprehensive Plan, Zoning and Development Ordinance, and any other applicable local, state or federal laws regulating the development of property.

8.4 Agency acknowledges receipt of a copy of the plans and specifications for construction of the Building Improvements referenced on Exhibit A attached.

8.5 Developer shall commence and complete the Building Improvements within the period of time as provided in this Agreement.

8.6 Developer covenants that it will not discriminate against any person or group of persons on account of age, race, color, creed, religion, sex, marital status, national origin, ancestry or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property.

8.7 Developer shall maintain the Property in a clean, neat and safe condition.

8.8 The foregoing covenants shall be binding upon and run for the benefit of the parties hereto and their respective assigns and successors in interest, subject to Section 9.12. In the event the Developer or any of its lessees, licensees, agents or other occupants, uses the Property in a manner inconsistent with Section 8 of this Agreement, the Agency may bring all appropriate legal and equitable actions.

9. **GENERAL PROVISIONS.**

9.1 **Attorneys' Fees.** The parties shall bear their own costs and attorney fees in the event an action is brought to enforce, modify or interpret the provisions of this Agreement.

9.2 **Notice.**

(a) All notices given pursuant to this Agreement shall be in writing and shall either be (i) mailed by first class mail, postage prepaid, certified or registered with return receipt requested, or (ii) delivered in person or by nationally recognized overnight courier, or (iii) sent by email.

(b) Any notice (i) sent by mail in the manner specified in subsection (a) of this section shall be deemed served or given three (3) business days after deposit in the United States Postal Service, (ii) delivered by nationally recognized overnight courier shall be deemed served or given on the date delivered or refused (or the next business day if not delivered on a business

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day), and (iii) given by email shall be deemed given on the date sent if sent during business hours of a business day in Portland, Oregon (or the next business day if not so sent). Notice given to party in any manner not specified above shall be effective only if and when received by the addressee as demonstrated by objective evidence in the possession of the sender.

(c) The address of each party to this Agreement for purposes of notice shall be as follows:

AGENCY: Clackamas County Development Agency
c/o Development Agency Manager
150 Beavercreek Road
Oregon City, Oregon 97045
Attn: Dave Queener
Email: davidque@co.clackamas.or.us

DEVELOPER: Oregon Beverage Recycling Cooperative
P.O. Box 4468
Portland, OR 97208
Attn: John Andersen
Email: jandersen@obrc.com

ESCROW HOLDER: Chicago Title Insurance Company of Oregon
1211 SW Fifth Avenue, Suite 2130
Portland, Oregon 97204
Attn: Wendy Geurin
Email: wendy.geurin@ctt.com

9.3 **Nonliability of Officials and Employees.** No member, elected official, official or employee of any of the parties shall be personally liable to the other party or any successor-in-interest thereto, in the event of any default or breach by either party or for any amount that may become due to either party or its successor, or any obligations under the terms of this Agreement.

9.4 **Headings.** Any title of the several parts and sections of this Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

9.5 **Time of Essence.** Time is of the essence of this Agreement. All obligations of the Agency and the Developer to each other shall be due at the time specified by the Agreement, or as the same may be extended by mutual agreement of the parties in writing.

9.6 **Severability.** If any clause, sentence or any other portion of the terms and conditions of this Agreement become illegal, null or void for any reason, or held by any court of competent jurisdiction to be so, the remaining portion will remain in full force and effect.

9.7 **No Partnership.** Neither anything in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person,

to create the relationship of principal and agent, or of partnership, or of joint venture, or any association between any of the parties to this Agreement.

9.8 **Nonwaiver of Government Rights.** Subject to the terms and conditions of this Agreement, by making this Agreement, the Agency is specifically not obligating itself, the County, or any other agency with respect to any discretionary action relating to the acquisition of the Property or development, operation and use of the improvements to be constructed on the Property, including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental agency approvals that are or may be required.

9.9 **Non-Integration.** This Agreement supplements the obligations of the parties under the DA, all of which shall be construed to be consistent with one another to the maximum extent possible. The terms and provisions of this Agreement do not modify or otherwise affect the terms and provisions of any other agreement between some or all of the parties hereto. All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the Agency and the Developer, and all amendments thereto must be in writing by the appropriate authorities by the Agency and the Developer.

9.10 **Further Assurances.** The parties to this Agreement agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein.

9.11 **Counterparts; Facsimile and Electronic Signatures.** This Agreement may be executed in counterparts. Facsimile and electronic transmission of any signed original document, and retransmission of any signed facsimile or electronic transmission, shall be the same as delivery of an original. At the request of either party, or an escrow officer, the parties shall confirm facsimile transmitted signatures by signing an original document.

9.12 **Binding Effect.** Except as otherwise provided herein, no party hereunder shall assign its rights and/or obligations under this Agreement without the consent of the other, which consent shall not be unreasonably withheld, conditioned or delayed. This Agreement is made for the sole benefit of the parties hereto and their permitted successors and assigns, and no other person or party shall have any right of action under this Agreement or any right to the funds in the Account. Subject to the terms of this Section 9.12, this Agreement shall be binding upon and inure to the benefit of the parties, and their respective heirs, personal representatives, successors and assigns

9.13 **Force Majeure.**

(a) **Event of Force Majeure.** The time for performing obligations under this Agreement shall be extended, on a day-for-day basis, due to, and a party shall not be liable for, or deemed in breach of this Agreement because of, any failure or omission to timely carry out or observe its obligations under this Agreement, to the extent that such performance is rendered impossible or is materially and demonstrably delayed by any event where the failure to perform or the delay is beyond the reasonable control of, and could not have been reasonably foreseen by, the nonperforming party; provided that such event is not caused by or attributable to the

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negligence or fault of, or breach of its obligations hereunder by, such party, and could not have been avoided by prudent commercial practices (any such event, a "Force Majeure Event").

(b) Notice of Force Majeure Events. As a condition to claiming a Force Majeure Event, the claiming party shall promptly give the other party a written notice describing the particulars of the Force Majeure Event of the occurrence of any such Force Majeure Event, including an estimate of the expected duration and the probable impact of the Force Majeure Event on the performance of such party's obligations hereunder. The parties hereto agree to use reasonable efforts to notify each other of potential Force Majeure Events and update each other on developments regarding potential Force Majeure Events.

(c) Mitigation. Suspension or extension of a party's obligations or performance under this Agreement due to a Force Majeure Event shall be of no greater scope and no longer duration than is reasonably required by such Force Majeure Event. The party claiming a Force Majeure Event shall have a duty to alleviate and mitigate the cause and effect arising from such Force Majeure Event, and to resume performance of its affected obligations under this Agreement promptly after being able to do so. The burden of proof with respect to a Force Majeure Event shall be on the party claiming the same.

9.14 Exhibits. All exhibits listed on the signature page below and attached hereto are incorporated into and constitute a part of this Agreement.

9.15 Saturday, Sunday and Legal Holidays. If the time for performance of any of the terms, conditions and provisions of this Agreement shall fall on Saturday, Sunday or legal holiday, then the time of such performance shall be extended to the next business day thereafter.

9.16 Neutral Construction. This Agreement has been negotiated with each party having the opportunity to consult with legal counsel and shall not be construed against either party.

9.17 Applicable Law. This Agreement shall be construed, applied and enforced in accordance with the laws of the State of Oregon without giving effect to the conflicts of law provision thereof.

9.18 Waiver. Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision. Waiver of any breach of any provision shall not be a waiver of any succeeding breach of the provision or waiver of the provision itself or any other provision.

9.19 Memorandum of Agreement. On or about the Effective Date, the parties will execute and deliver a memorandum of this Agreement in mutually acceptable form, which shall be recorded in the official records of Clackamas County, Oregon. This Agreement shall not be recorded. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective assigns and successors in interest. Upon termination of this Agreement, the parties shall execute and record at Developer's expense an instrument in mutually acceptable form evidencing such termination.

[SIGNATURES START ON NEXT PAGE]

IN WITNESS WHEREOF the parties have executed this Agreement to be effective as of the day and year first above written.

DEVELOPER:

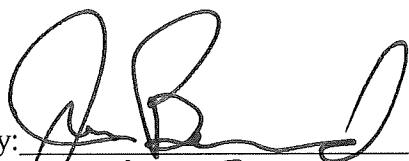
Oregon Beverage Recycling Cooperative
an Oregon domestic cooperative

By: [Signature]
Name: 107 M. Baller CEO and Secretary
Date of Execution: 4/12/19

[Handwritten mark]

IN WITNESS WHEREOF the parties have executed this Agreement to be effective as of the day and year first above written.

AGENCY:
Clackamas County Development Agency
a corporate body politic

By: 
Name: JIM BERNARD
Title: Chair
Date of Execution: 4/18/19

IN WITNESS WHEREOF the parties have executed this Agreement to be effective as of the day and year first above written.

ESCROW HOLDER:

By: Wendy
Name: Wendy Geurin
Title: SR. Loan Escrow Officer
Date of Execution: 4-19-19

List of Exhibits

Exhibit A Scope of Development
Exhibit B Schedule of Performance

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EXHIBIT A to Post-Closing and Escrow Agreement

Scope of Development

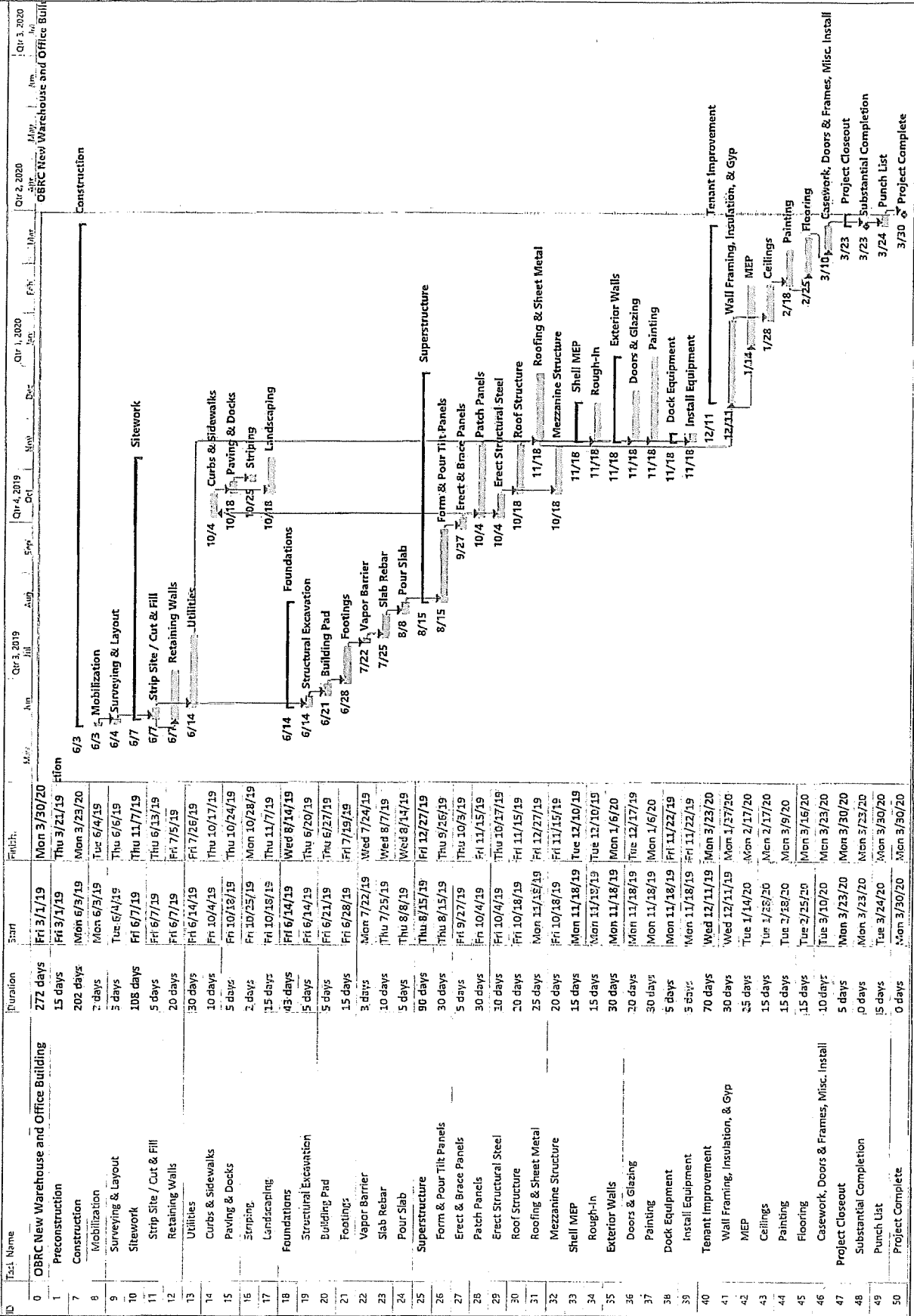
The approximate 12.68 gross acres (0.36 net buildable acres) will be developed with:

1. Processing area of approximately 61,000 SF of warehouse
2. Bottle wash area of approximately 21,000 SF of warehouse
3. PET processing area of approximately 12,000 SF of warehouse
4. Corporate office of approximately 21,000 SF
5. Approximately 194 employee parking stalls
6. Approximately 72 truck/trailer parking stalls
7. On-site storm drainage pond
8. On-site landscaping

The processing and corporate office buildings will most likely be concrete tilt up construction, however OBRC reserves the right to select the final building materials based upon costs.

Exhibit B

Oregon Beverage Recycling Cooperative
Preliminary Bid Schedule
April 8, 2019



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SERVING INDUSTRY
AND THE ENVIRONMENT

June 11, 2021

David Queener
Program Supervisor
Clackamas County Development Agency
150 Beaver Creek Road | Suite 325
Oregon City, OR 97045

RE: OBRC Post-Closing Escrow and Development Agreement

Dear David:

Pursuant to the Post-Closing Escrow and Development Agreement dated April 19, 2019, Oregon Beverage Recycling (OBRC) is pleased to provide the following data to support our request to close out the escrow and terminate this agreement.

Development Goals Reached

Section 1.1 - Building Improvements; Floor Area Ratio Goal

The building's gross site area is 12.65 acres with a building floor area ratio of .3358. Our Certificate of Occupancy is attached.

Section 1.2 – Job Quantity Goal

Based on our building size of 142,053 SF, a minimum number of workers should be 129 workers. As of June 1, 2021 OBRC employs 185 workers at this facility. OBRC supporting document available upon request.

Section 1.3 – Wage Goal

Based on the wage goal of this agreement, using BLS code 423930, average hourly employee earnings should be \$20.54. As of June 1, 2021, OBRC employees earn on average \$24.27. The BLS industry code reference is attached. OBRC supporting document available upon request.

Oregon Beverage Recycling Cooperation requests that Clackamas County Development Agency sign the attached Chicago Title "Release of Funds Held" document to close out the escrow in the amount of \$125,000.00 and release the funds to OBRC.

Sincerely,



Troy Ballew
Chief Financial Officer
Oregon Beverage Recycling Cooperative
17300 SE 120th Ave,
Clackamas, OR 97015

Attachments:
Certificate of Occupancy
BLS Industry Code
Chicago Title Release of Funds Held

Sent via email and mail: Queener, David <DavidQue@clackamas.us>

https://www.bls.gov/web/empisit/cesbmart-tables.htm#PE_HE

CES Industry Code	CES Industry Title	Average Weekly Hours			Average Hourly Earnings (\$)			Note
		Estimated	Revised	Difference	Estimated	Revised	Difference	
41-423910	Sporting goods	37.8	37.8	0.0	23.10	23.10	0.00	
41-423930	Recyclable materials	41.7	41.7	0.0	20.54	20.54	0.00	
41-424000	Nondurable goods	37.7	37.7	0.0	24.51	24.50	-0.01	
41-424100	Paper and paper products	37.5	37.5	0.0	25.55	25.55	0.00	
41-424200	Druggists' goods	33.9	33.9	0.0	32.76	32.76	0.00	
41-424300	Apparel and piece goods	37.2	37.2	0.0	24.34	24.34	0.00	
41-424400	Grocery and related products	38.7	38.7	0.0	21.95	21.95	0.00	
41-424410	General line grocery	37.8	37.8	0.0	23.18	23.18	0.00	
41-424480	Fruits and vegetables	40.9	40.9	0.0	19.57	19.57	0.00	
41-424500	Farm product raw materials	37.6	37.6	0.0	21.75	21.75	0.00	
41-424600	Chemicals	40.8	40.8	0.0	30.73	30.73	0.00	
41-424700	Petroleum	39.4	39.4	0.0	24.04	24.04	0.00	
41-424800	Alcoholic beverages	37.0	37.0	0.0	25.50	25.50	0.00	
41-424900	Misc. nondurable goods	37.1	37.1	0.0	22.30	22.30	0.00	
41-424910	Farm supplies	39.0	39.0	0.0	23.71	23.71	0.00	

https://www.bls.gov/web/empsit/cesbmart-tables.htm#PE_HE

CES Industry Code	CES Industry Title	Average Weekly Hours			Average Hourly Earnings (\$)			Note
		Estimated	Revised	Difference	Estimated	Revised	Difference	
41-425000	Electronic markets and agents and brokers	38.0	38.0	0.0	32.12	32.12	0.00	
42-000000	Retail trade	30.5	30.5	0.0	17.04	17.04	0.00	
42-441000	Motor vehicle and parts dealers	37.1	37.1	0.0	21.36	21.40	0.04	
42-441100	Automobile dealers	37.3	37.3	0.0	23.09	23.08	-0.01	
42-441110	New car dealers	37.6	37.6	0.0	23.36	23.36	0.00	
42-441120	Used car dealers	35.4	35.4	0.0	21.01	21.01	0.00	
42-441200	Other motor vehicle dealers	34.8	34.8	0.0	20.65	20.65	0.00	
42-441300	Auto parts, accessories, and tire stores	37.3	37.3	0.0	17.51	17.51	0.00	
42-441310	Automotive parts and accessories stores	37.0	37.0	0.0	17.33	17.33	0.00	
42-441320	Tire dealers	38.0	38.0	0.0	17.85	17.85	0.00	

Showing 176 to 200 of 514 entries

Last Modified Date: February 5, 2021

Certificate of Occupancy

Clackamas County

Building Codes Division

This certificate is issued pursuant to the requirements of the State of Oregon Structural Specialty Code certifying that at the time of issuance, this structure was inspected and was in compliance with the ordinances and codes regulating building construction and use.

Building Address: 17300 SE 120TH AVE CLACKAMAS, OR 97015 **Permit No:** C0003820

Township: 2S **Range:** 2E **Section:** 15A **Taxlot:** 02100 **Zone:** R20

Owner: OREGON BEVERAGE RECYCLING COOP **Construction Type:** III-B

Owners Address: PO BOX 4468, PORTLAND, OR 97208

Use of Building: OREGON BEVERAGE RECYCLING. - NEW BLDG AND FIRE LINE **Occupancy Group:** B/S-1

Total Occupancy Load: 586 **Code Edition:** 2014 OSSC **Sprinklers Required:** Yes

Special Conditions: MAIN PERMIT B0153319

Matt Rozzell

Digitally signed by Matt Rozzell
Date: 2021.02.05 08:51:17 -08'00'

Matt Rozzell

Issue Date 02/05/2021

Building Official

THIS CERTIFICATE MUST BE CONSPICUOUSLY AND PERMANENTLY POSTED



INSTRUCTIONS FOR RELEASE OF FUNDS HELD

Regarding: Supplemental Escrow Instructions Funds Held dated April 17, 2019
Escrow No.: HB7007059-WG
Buyer(s): Oregon Beverage Recycling Cooperative
Seller(s): Clackamas County Development Agency
Lender:
Property: 11950 S.E. Capps Road, Clackamas, OR

The Buyer have deposited One Hundred Twenty-Five Thousand And No/100 Dollars (\$125,000.00) as Funds Held under the above referenced Supplemental Escrow Instructions Funds Held dated April 17, 2019. Both parties agree to the disbursement of held funds as follows:

Funds to: ACH ABA Routing # 323070380
Wire Routing # 026009593
Account # 48500576156

We also release Chicago Title Company of Oregon from all liability or responsibility in connection with this agreement.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

BUYER(S):

Oregon Beverage Recycling Cooperative

BY: [Signature]
Troy H. Ballew, Secretary

[Signature]
Date

SELLER(S):

Clackamas County Development Agency

BY:
Jim Bernard, Board Chair

Date



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of the First Amendment to the Intergovernmental Agreement Between Clackamas River Water and the Clackamas County Development Agency Relating to the Clackamas Regional Center Mobility Improvement Project

Purpose/Outcomes	Execution of the First Amendment to the IGA refines the Scope of Work undertaken by the Agency for CRW and specifies the dollar amount that is to be reimbursed to the Agency for that work.
Dollar Amount and Fiscal Impact	The Development Agency will be reimbursed \$203,477.23.
Funding Source	Funds for the reimbursement will come from Clackamas River Water
Duration	The IGA will expire upon completion of all obligations outlined in the agreement or on December 31, 2021, whichever is sooner.
Previous Board Action	5/2/2019: BCC Approval of the Intergovernmental Agreement
Strategic Plan Alignment	This project will build and provide strong Infrastructure
Procurement Review	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
Counsel Review	Reviewed and Approved by Counsel on July 15, 2021 NB
Contact Person	David Queener, Development Agency Senior Project Planner 503.742.4322

Background:

The Development Agency entered into an Intergovernmental Agreement (IGA) with Clackamas River Water (CRW) on May 2, 2019. The IGA outlines the roles and responsibilities for each party as it relates to construction of water lines and appurtenances on the Clackamas Regional Center (CRC) Mobility Improvement Project. Per the IGA, the Agency will have its consultant complete the waterline design as part of the overall design of the project. The Agency will also have the contractor construct the improvements on CRW's behalf. In exchange, CRW will reimburse the Agency for all costs related to design and construction of the waterline improvements.

In order to accurately know what the cost for the waterline construction would be, a contractor needed to be selected with their bid costs known. The waterline portion of the project is now complete so all in-field design changes and final costs are known. This amendment to the IGA reflects what was actually constructed.

Upon execution of this amendment, CRW will reimburse the Agency \$203,477.23.

Recommendation:

Staff respectfully recommends that the Board approve and execute the First Amendment to the Intergovernmental Agreement between Clackamas River Water and the Development Agency relating to the Clackamas Regional Center Mobility Improvement Project.

Sincerely,

David Queener

David Queener,
Development Agency Program Supervisor

**FIRST AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS RIVER WATER AND THE CLACKAMAS COUNTY
DEVELOPMENT AGENCY RELATING TO THE CLACKAMAS REGIONAL
CENTER MOBILITY IMPROVEMENT PROJECT**

THIS FIRST AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT RELATING TO THE CLACKAMAS REGIONAL CENTER MOBILITY IMPROVEMENT PROJECT (“Amendment”) is entered into effective as of July 31, 2021, between Clackamas River Water, a domestic water district organized under ORS chapter 264 (“CRW”), and Clackamas County Development Agency, a corporate body politic (“Agency”), collectively referred to as the “Parties” and each a “Party.”

RECITALS

- A. CRW and the Agency are parties to that certain Intergovernmental Agreement dated effective as of May 2, 2019, (the “Agreement”), concerning the CRW Transmission Line Project which will incorporate modifications to the existing water transmission lines in the area and which is part of the larger Clackamas Regional Center Mobility Improvements Project being administered by the Agency. The CRW Transmission Line Project is more particularly described in the Agreement.
- B. The Agreement is limited by its terms to the design and engineering work associated with the CRW Transmission Line Project and contemplated that Parties could later amend the Agreement, and in particular Exhibit A – Scope of Work and Exhibit C – Project cost, to include construction of the required water system upgrades as part of the CRW Transmission Line Project.
- C. The Parties now wish to amend the Agreement to provide for the Agency’s construction of the required water system upgrades and CRW’s reimbursement of the costs associated with that work.

AGREEMENT

- 1. **Amendment to Section 2(a).** Section 2(a) of the Agreement which reads:
 - A. Scope of Work. CRW agrees to the scope of work set out in Exhibit A. Before the Agency solicits bids for construction of the improvements contemplated by the Project, CRW will review the plans produced by Agency’s consultant in connection with the Project and the procurement materials, and will not withhold approval of those plans and materials unreasonably.

Shall be deleted in its entirety and replaced with the following:

- a. Scope of Work. CRW agrees to the scope of work set out in Exhibit A. CRW has reviewed the plans produced by Agency’s consultant in connection with the Project and the procurement materials and hereby approves of those plans and materials.
- 2. **Amendment to Section 3(a).** Section 3(a) of the Agreement, which reads:
 - a. Scope of Work. The Agency will contract for the scope of work set out in Exhibit A. Before soliciting bids for construction of the improvements

contemplated by the Project, Agency will obtain CRW's written approval of the plans produced by HHPR in connection with the Project and of the procurement materials, which approval shall not be withheld unreasonably.

Shall be deleted in its entirety and replaced with the following:

- a. Scope of Work. The Agency will contract for the scope of work set out in Exhibit A.

3. Exhibit A. The document attached to this Amendment identified as Exhibit A "Scope of Work" shall replace the "Scope of Work" attached to the Agreement as Exhibit A.

4. Exhibit C. The document attached to this Amendment, identified as Exhibit C "CRC Mobility Improvements Clackamas River Water Work Completed by the County" and dated June 6, 2021, shall supplement and be added to the document which is titled "Project Cost" and is attached to the Agreement as Exhibit C.

5. Counterpart; Email. This Amendment may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Amendment. Facsimile or email transmission of any signed original of this Amendment, and retransmission of any signed facsimile or email transmission, shall be the same as delivery of an original. At the request of either party, the parties shall confirm transmitted signatures by signing an original document.

6. Confirmation. The Agreement is hereby amended and modified in accordance with the terms of this Amendment. Except as expressly modified by this Amendment, the Agreement and all its terms and provisions are hereby acknowledged, approved, ratified and confirmed and shall be and remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment effective as of the date first written above.

AGENCY:

CLACKAMAS COUNTY DEVELOPMENT AGENCY,
a corporate body politic

By: _____
Name: Tootie Smith
Its: Chair, Clackamas County Development Agency Board

CRW:

CLACKAMAS RIVER WATER,
a domestic water district organized under ORS chapter 264

By: Sherry French
Name: Sherry French
Its: CRW Board of Commissioners President

EXHIBIT A

SCOPE OF WORK

Design Phase Scope of Work:

Clackamas River Water District (CRW) desires to have HHPR, who is under contract with the Clackamas County Development Agency, provide Engineering Services as required to incorporate various CRW elements of work into the overall CRC Mobility Plans. Specific elements of CRW design work to be incorporated are detailed in Exhibit 1 (attached). The Scope of Services is as follows:

Task 1: Base Map Preparation

Prepare base map and drawing sheet set up for review and approval by Clackamas River Water District. The following sheets are anticipated:

- Up to four (4) plan sheets, which may include enlarged plan views at 1"=5' scale and/or section views to illustrate construction requirements.
- Up to two (2) detail sheets

Task 2: Design and Review Comments

Preliminary design has been completed by CRW and provided to HHPR. HHPR will incorporate CRW's design into the existing project drawings and the new CRW sheets and provide a copy of modified sheets to CRW for review. CRW's review will be independent of any % complete review set, as we are currently approaching 100% completion. Upon receipt, CRW will provide review comments within 1 week to allow any required revisions to be incorporated into the final plans.

Task 3: Final Plan Submittal – Bid Document Preparation

Prepare final construction drawings for bidding and construction. Submit final drawings to Clackamas River Water District for final review and approval. Make minor corrections as needed (issue changes as addenda if required).

Task 4: Prepare Project Specifications and Engineer's Estimates

Prepare special provisions for the installation of the water improvements, and other construction elements of the project. Provide a bid schedule for the project, along with an engineer's estimate. Incorporate project specifications in the 2018 APWA/ODOT format for bidding with Clackamas County.

Task 5: Bidding Assistance

Answer questions from the City Staff during the bidding process. Provide written or verbal clarification of bid items and/or plans as requested.

Task 6: Inspection Services

Provide general inspection services during installation of the waterline, concurrent with other inspection tasks. Track quantities for payment. Provide daily inspection notes (provide copies to CRW on a weekly basis). It is assumed that the water improvements will require 4 weeks to complete, and that the inspector will be present 10% of this time. CRW will provide primary

inspection of CRW work and will participate in final walkthrough and generation of punch list items. CRW will provide review of submittals and RFI's.

Task 7: As-Built Drawings

Complete as-built drawings of the project to reflect changes made during construction. The as-built drawings will be generated from contractor and inspector notes (new survey will not be completed). Provide digital Autocad and PDF files to the Clackamas River Water District.

Construction Phase Scope of Work:

CRW desires to have Kerr General Contractors, who is under contract with the Clackamas County Development Agency, to construct certain elements of the water supply system on behalf of CRW. The Contractor will complete the following, the cost of which is itemized in Exhibit C:

- Install Fire Hydrant Assembly with Wet Tap (WD-1/W)¹
- Abandon 2 Inch Water Service (WD3/W)
- Replace 8 Inch Waterline (WD-4/W-2)
- Install Fire Hydrant Assembly with Wet Tap (WD-4/W-2)
- Abandon Fire Hydrant and Pipe (WD-4/W-2)
- Pothole and Locate Valve (WD-4/W-2)
- Replace 6 Inch Waterline and Install Fire Hydrant Assembly (WD-5/W-2)
- Abandon 2 Inch Water Service (WD-5/W-2)
- Install Fire Hydrant Assembly (WD-6/W-2)
- Install Fire Hydrant Assembly (WD-7/W-3)
- Relocate 12 Inch DI Waterline at New Sign Bridge (WD-8/W-3)
- Relocate 8 Inch DI Waterline at New PGE Vault (WD-9/W-3)
- Install Insert Valve (WD-9/W-3)
- Remove Fire Hydrant and Abandon Valve (WD-9/W-3)
- Install 12 Inch DI Waterline, Complete (Sunnybrook Loop Plans)
- Replace Valve Box Top, Lid, and Bottom Section

¹ These are references to the waterline detail (WD) on the waterline plan sheets (W) prepared by Harper Houf Peterson Righellis, Inc., dated August 15, 2019.

CRC Mobility Improvements

Exhibit C

Clackamas River Water Work Completed by the County

June 6, 2021

Bid Item Prices

Bid Item Prices					Kerr	
ITEM	SPEC	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL
Part 1100 - Water Supply Systems						
214	01140	Install Fire Hydrant Assembly with Wet Tap (WD-1/W)	LS	1	\$ 14,085.00	\$ 14,085.00
215	01140	Abandon 2 Inch Water Service (WD3/W)	LS	1	\$ 1,710.00	\$ 1,710.00
216	01140	Replace 8 Inch Waterline (WD-4/W-2)	LS	1	\$ 15,965.00	\$ 15,965.00
217	01140	Install Fire Hydrant Assembly with Wet Tap (WD-4/W-2)	LS	1	\$ 14,525.00	\$ 14,525.00
218	01140	Abandon Fire Hydrant and Pipe (WD-4/W-2)	LS	1	\$ 2,560.00	\$ 2,560.00
219	01140	Pothole and Locate Valve (WD-4/W-2)	LS	1	\$ 840.00	\$ 840.00
220	01140	Replace 6 Inch Waterline and Install Fire Hydrant Assembly (WD-5/W-2)	LS	1	\$ 13,235.00	\$ 13,235.00
221	01140	Abandon 2 Inch Water Service (WD-5/W-2)	LS	1	\$ 1,710.00	\$ 1,710.00
222	01140	Install Fire Hydrant Assembly (WD-6/W-2)	LS	1	\$ 14,180.00	\$ 14,180.00
223	01140	Install Fire Hydrant Assembly (WD-7/W-3)	LS	1	\$ 6,525.00	\$ 6,525.00
224	01140	Relocate 12 Inch DI Waterline at New Sign Bridge (WD-8/W-3)	LS	1	\$ 17,095.00	\$ 17,095.00
224.1	01140	Relocate 8 Inch DI Waterline at New PGE Vault (WD-9/W-3)	LS	1	\$ 13,060.00	\$ 13,060.00
225	01140	Install Insert Valve (WD-9/W-3)	LS	1	\$ 21,000.00	\$ 21,000.00
226	01140	Remove Fire Hydrant and Abandon Valve (WD-9/W-3)	LS	1	\$ 1,690.00	\$ 1,690.00
226.1	01140	Install 12 Inch DI Waterline, Complete (Sunnybrook Loop Plans)	LS	1	\$ 40,250.00	\$ 40,250.00
227	01140	Replace Valve Box Top, Lid, and Bottom Section	EACH	15	\$ 875.00	\$ 13,125.00
APPROVED CHANGE ORDERS						
CO 3		BI 224.1 Design Change Related to Water Detail Sheet 3, WD-9 and WD-	LS	1	\$ (1,258.10)	\$ (1,258.10)
CO 15		Relpacement of Existing Cracked and Leaking 6" Valve at WD-4	LS	1	\$ 10,588.90	\$ 10,588.90
CO 53		Abandon Previously Unkown 2" Line in the Median at 93rd ans Sunnyside	LS	1	\$ 2,591.43	\$ 2,591.43
CLACKAMAS RIVER WATER SYSTEM SUPPLY TOTAL					\$203,477.23	



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Execution of a Quitclaim Deed Related to an Owner Participation Development Agreement
Between Kohnstamm Pacific Corp and the Clackamas County Development Agency

Purpose/Outcomes	Execution of the quitclaim deed releases and quitclaims any title and interest in the property owned by Kohnstamm Pacific Corp
Dollar Amount and Fiscal Impact	No fiscal impact
Funding Source	Not applicable
Duration	The release is permanent
Previous Board Action	The Owner Participation Development Agreement (OPDA) was executed on June 2, 2005 and a first amendment to the OPDA was executed on June 27, 2006.
Strategic Plan Alignment	Grow a vibrant economy and build a strong infrastructure.
Procurement Review	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
Counsel Review	Reviewed and Approved by Counsel on June 16, 2021 NB
Contact Person	David Queener, Development Agency Senior Project Planner 503.742.4322

Background:

An Owner Participation Development Agreement (OPDA) was executed between the Development Agency and Kohnstamm Pacific Corp in June 2005. The OPDA was amended in June 2006. The agreement outlined commitments from both parties with respect to a new building being constructed by Kohnstamm Pacific. The Agency would provide \$763,000 toward the project. In exchange, Kohnstamm Pacific would provide fire sprinklers and other upgrades to the development that would otherwise not be required. They also included additional amenities such as public sidewalks and parking.

Kohnstamm Pacific was required to operate and maintain the building and property for a minimum of 15 years. They have satisfied this requirement. Therefore, the OPDA is no longer in effect and per the agreement, a quitclaim deed must be executed releasing any interest in the property the Agency may have.

Recommendation:

Staff respectfully recommends that the Board approve and execute a Quitclaim Deed to Kohnstamm Pacific Corp releasing any title and interest in their property.

Sincerely,

David Queener

David Queener
Development Agency Program Supervisor

After recording, return to: I
 Clackamas County Development Agency I
 150 S. Beavercreek Road I
 Oregon City, OR 97045 I
 I
 Send Tax Statements to: I
 No Change I
 I
Accepted By Clackamas County I
Development Agency I
 I
Agenda Date & Number: _____ I
OR I
Board Order Number: _____ I

STATUTORY QUITCLAIM DEED

Clackamas County Development Agency, the urban renewal agency of Clackamas County (“Grantor”), releases and quitclaims to the Kohnstamm Pacific Corp., an Oregon corporation (“Grantee”), all its right, title, and interest in and to the following described real property resulting from that Owner Participation and Development Agreement between Grantor and Grantee dated June 2, 2005, and as amended by instrument on June 27, 2006. The Owner Participation and Development Agreement and the Amendment are recorded in the Clackamas County real property records as Document No. 2005-057958 and Document No. 2006-073844 respectively.

The real property subject to this deed is situated in Clackamas County, and is legally described as follows:

Lots 3, 4, and 5, Block 2, GOVERNMENT CAMP PARK

The true consideration for this conveyance is the sum of \$0 dollars and other such good and valuable consideration. This quitclaim is required to fulfill the obligation of the Grantor set forth in Section 6 of the Owner Participation and Development Agreement.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST

PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED this _____ day of _____, 2021.

Clackamas County Development Agency

BY: _____
Chair, Development Agency Board

NAME: _____

STATE OF OREGON)
)
County of Clackamas)

This instrument was acknowledged before me on _____, 2021 by _____, authorized to act on behalf of the Clackamas County Development Agency, Grantor.

Notary for Oregon
My Commission expires: _____



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Execution of a Bill of Sale to the Government Camp Water Company for a New Waterline
Constructed in Government Camp

Purpose/Outcomes	Conveys all interest in the waterline to the Government Camp Water Company. The Water Company will be required to operate and maintain the waterline
Dollar Amount and Fiscal Impact	No fiscal impact
Funding Source	Not applicable
Duration	The Bill of Sale is permanent
Previous Board Action	The Board signed the contract to construct the waterline in July 2015.
Strategic Plan Alignment	Build a strong infrastructure
Procurement Review	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
Counsel Review	Reviewed and Approved by Counsel on July 22, 2021 AK
Contact Person	David Queener, Development Agency Senior Project Planner 503.742.4322

Background:

In 2015, the Development Agency completed a project that extended a water main through Forest Service land in order to provide necessary supply and fire protection to Skibowl. Upon completion, interest in the waterline is to be conveyed to Government Camp Water Company. In exchange for receiving the new asset, the Water Company agrees to operate and maintain the line.

Recommendation:

Staff respectfully recommends the Board sign and execute the Bill of Sale conveying interest in a new waterline to the Government Camp Water Company.

Sincerely,

David Queener

David Queener
Development Agency Program Supervisor

BILL OF SALE

CLACKAMAS COUNTY DEVELOPMENT AGENCY, the urban renewal agency of the County of Clackamas, (“Agency”) hereby grants, bargains, sells, transfers, conveys and delivers to Government Camp Water Company, an Oregon corporation (“GCWC”), all right, title and interest to the Skibowl Waterline Extension, as that term is defined in the Third Agreement to Pay Maintenance Expenses, together with related personal property of every kind and nature used by Agency in connection with the Skibowl Waterline Extension (“Waterline”). This Bill of Sale is effective upon execution by all parties, and is executed and delivered in connection with the Second Agreement to Pay Maintenance Expenses by and between Agency and GCWC.

The consideration for the transfer of the Waterline is GCWC’s commitment to maintain the facility, as outlined in the Third Agreement to Pay Maintenance Expenses, consistent with the requirements of the Government Camp Village Revitalization Plan, which was originally adopted by Clackamas County Board Order No. 89-1143 in December 1989.

Except as otherwise expressly stated above, the Agency makes no warranties or representations with respect to the Waterline, GCWC accepts the Waterline AS IS, WHERE IS, in its present condition, including all defects and with all faults, and there are no warranties of merchantability or of fitness for a particular purpose with respect to the Waterline.

GCWC agrees to indemnify, save harmless and defend the Agency, its officers, commissioners, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts, of GCWC or GCWC’s officers, owners, employees, agents, or its subcontractors or anyone over which the GCWC has a right to control.

Dated: _____, 2021

Agency:

CLACKAMAS COUNTY DEVELOPMENT
AGENCY, the urban renewal agency of the County
of Clackamas,

By: _____
Chair



August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Revocation of a Special Use Permit from the United States Forest Service to Clackamas County
to Allow Construction of a Waterline in Government Camp

Purpose/Outcomes	Revocation of a Special Use Permit that allowed construction of a new waterline on Forest Service land.
Dollar Amount and Fiscal Impact	No fiscal impact
Funding Source	Not applicable
Duration	The revocation will be permanent
Previous Board Action	The Board signed the contract to construct the waterline in July 2015.
Strategic Plan Alignment	Build a strong infrastructure
Procurement Review	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
Counsel Review	Reviewed and Approved by Counsel on July 21, 2021 AN
Contact Person	David Queener, Development Agency Senior Project Planner 503.742.4322

Background:

In 2015, the Development Agency completed a project that extended a water main through Forest Service land in order to provide necessary supply and fire protection to Skibowl. A temporary Special Use Permit was issued by the Forest Service that allowed construction of the line. Upon completion, interest in the waterline was to be conveyed to Government Camp Water Company, who operates and maintains the line.

A Special Use Permit will be issued to the Water Company to allow continuing operation of the line, but the existing permit must be terminated first. The attached document revokes the permit issued to the Development Agency and requests issuance of a new permit to the Water Company.

Recommendation:

Staff respectfully recommends the Board sign and execute the Request for Revocation of the Special Use Permit issued by the USDA Forest Service.

Sincerely,

David Queener

David Queener
Development Agency Program Supervisor

**USDA FOREST SERVICE
HOLDER INITIATED REVOCATION OF EXISTING AUTHORIZATION
REQUEST FOR A
SPECIAL-USE PERMIT OR TERM SPECIAL-USE PERMIT**

PART I - REQUEST FOR REVOCATION (Completed by current permit holder)

I (We), the undersigned holder(s) of a special-use authorization, dated 03/18/2015 authorizing me (us) to occupy and use National Forest System lands for a buried 12" diameter water transmission pipeline, have

(Mark one box with "X")

- conveyed all my (our) right, title, and interest in and to the improvements located on the parcel covered by said permit to:
- entered into a contract for the sale of the improvements located on the parcel covered by said permit but have retained title to said improvements until completion of payment under said contract with:

New Owner (1): Government Camp Water Co.
(Please Print)

Address: 30294 E. Blossom Trail, Governement Camp

New Owner (2): _____
(Please Print)

Address: _____

Phone: (503) 260-1342

Accordingly, I (we) request that the special-use authorization identified above be revoked. I (we) have informed the new owner(s) that (1) the current authorization is not transferable; (2) they must apply for and obtain a new authorization; (3) there are terms and conditions for the use of National Forest System lands; (4) and they must contact the Forest Service prior to acquisition of improvements. The remaining balance of any fees previously paid should be credited to the new owner(s) named above, if an authorization is issued.

Holder (1): Clackamas County
(Please Print)

Holder (2): _____
(Please Print)

Signature: _____
(Please Print)

Signature: _____

Date: ____ (mm/dd/yyyy)

PART II - REQUEST FOR A NEW PERMIT OR TERM PERMIT (Completed by new owner - Requester)

Request is made for a special use authorization to cover the same parcel of land or use covered by the authorization referred to above, and for the same purpose, subject, however, to such new conditions and stipulations as the circumstances may warrant. I (We) acknowledge that this is a request only, and that the use and occupancy of National Forest System lands is not authorized until an authorization is signed and issued by an authorized officer. I (We) also understand that an administrative fee may be charged by the Forest Service to process this request for a new authorization to use or occupy National Forest System lands.

Requester(1): _____
(Please Print)

Phone: () -

Signature: _____

E - Mail: _____

FAX: () -

Requester(2): _____
(Please Print)

Signature: _____

Date: _____ (mm/dd/yyyy)

18 U.S.C. § 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction. Anyone who knowingly or willfully makes or uses any false writing shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

PLEASE ATTACH BILL OF SALE, DEED, OR OTHER DOCUMENTATION VERIFYING PURCHASE OF IMPROVEMENTS

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

PART III - REQUEST CHECKLIST (Completed by Administrator/Case Manager)

1. Does the current use and occupancy of National Forest System lands and facilities comply with all federal, state, and local laws, regulations, orders, and policies? If not, what must be done to make the use and occupancy
 Yes comply? _____

No

2. Is the current use and occupancy of National Forest System lands and facilities being conducted in a manner that is consistent with established standards and guidelines in the Forest Land and Resource Management Plan? If
 Yes not, can it be made to be consistent? How? _____

No

3. What was the date of last inspection? What is the condition of the authorized area and facilities? (Describe
 Yes undesirable or unacceptable conditions that need to be corrected.) _____

No

4. Does the requester(s) owe any fees to the Forest Service from a prior or existing special-use authorization? If
 Yes yes, identify fees owed. _____

No

5. Is the requester(s) qualified to hold an authorization for the subject use and occupancy? If not, why?

Yes _____

No

6. Can the requester(s) demonstrate technical and financial capability to undertake the proposed use and
 Yes occupancy, and fully comply with all the terms and conditions of the authorization? _____

No

7. Is there someone authorized by the requester(s) to sign an authorization, and there is someone willing to accept
 Yes the responsibility of the terms and conditions of the authorization? _____

No

Remarks:

Signature of Administrator /Case Manager:

Date: (mm/dd/yyyy)

PART IV - AUTHORIZED OFFICER

The request and/or requester do not meet the criteria identified in Part III of this form. Therefore, I will not approve this request to issue an authorization to use or occupy National Forest System lands for the use(s) described in Part I of this form.

The request and the requester meet the criteria identified in Part III of this form. Therefore, I approve this request to issue an authorization to use or occupy National Forest System lands for the use(s) described in Part I of this form.

Signature: _____

Title:

Date: (mm/dd/yyyy)



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Special Use Permit from the United States Forest Service to Clackamas County
for Maintenance of Two Community Identification Signs for Government Camp

Purpose/Outcomes	Execution of the Special Use Permit allows for continuance of the placement and maintenance of two Government Camp village entry signs located on Forest Service land.
Dollar Amount and Fiscal Impact	No fiscal impact
Funding Source	Not applicable
Duration	The Special Use Permit will be in effect until December 31, 2028
Previous Board Action	The first special use permit was issued in 2008.
Strategic Plan Alignment	Build public trust through good government
Procurement Review	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
Counsel Review	Reviewed and Approved by Counsel on July 21, 2021 AN
Contact Person	David Queener, Development Agency Senior Project Planner 503.742.4322

Background:

Since 2008, Clackamas County has had a special use permit with the United States Forest Service (USFS) that allowed two village entry signs to be installed adjacent to Highway 26 on Forest Service land. That permit has expired and a new one must be issued.

The new permit will allow for continued placement of the signs and to provide periodic maintenance as needed. It will be in effect until December 31, 2028.

Recommendation:

Staff respectfully recommends that the Board approve and execute Special Use Permit from the United States Forest Service for maintenance of two community identification signs for Government Camp.

Sincerely,

David Queener
Development Agency Program Supervisor

Authorization ID: ZIG320
Contact Name: CLACKAMAS, COUNTY OF
Expiration Date: 12/31/2028
Use Code: 333

FS-2700-4 (VER. 03/17)
OMB 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE**

**SPECIAL USE PERMIT
Authority: ORGANIC ADMINISTRATION ACT June 4, 1897**

CLACKAMAS, COUNTY OF, 150 Beavercreek Road, Oregon City, OR 97045 (hereinafter "the holder") is authorized to use or occupy National Forest System lands in the **MT HOOD NATIONAL FOREST, Zigzag Ranger District** of the National Forest System, subject to the terms and conditions of this special use permit (the permit).

This permit covers **.01 acres** in the **, NE1/4NW1/4 Sec. 24, T. 3 S., R. 8 E., NW1/4 Sec. 24, T. 3 S., R. 8 E., WILLAMETTE MERIDIAN or 6th PM**, ("the permit area"), as shown on the map attached as Appendix A. This and any other appendices to this permit are hereby incorporated into this permit.

This permit issued for the purpose of:

Maintenance of two existing community identification signs for Government Camp located at both entries from Highway 26. All modification requests to current signage need to be made to the District Ranger. Operations and Maintenance Plan attached as Appendix B.

TERMS AND CONDITIONS

I. GENERAL TERMS

A. AUTHORITY. This permit is issued pursuant to the ORGANIC ADMINISTRATION ACT June 4, 1897 and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

B. AUTHORIZED OFFICER. The authorized officer is the Forest or Grassland Supervisor or a subordinate officer with delegated authority.

C. TERM. This permit shall expire at midnight on 12/31/2028, 8 years and 1 month from the date of issuance.

D. CONTINUATION OF USE AND OCCUPANCY. This permit is not renewable. Prior to expiration of this permit, the holder may apply for a new permit for the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit. Issuance of a new permit is at the sole discretion of the authorized officer. At a minimum, before issuing a new permit, the authorized officer shall ensure that (1) the use and occupancy to be authorized by the new permit is consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit; and (3) the holder is in compliance with all the terms of this permit. The authorized officer may prescribe new terms and conditions when a new permit is issued.

E. AMENDMENT. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, directive, the applicable forest land and resource management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS. In exercising the rights and privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

G. NON-EXCLUSIVE USE. The use or occupancy authorized by this permit is not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area for inspection, monitoring, or any other purpose consistent with any right or obligation of the United States under any law or regulation. The Forest Service reserves the right to allow others to use the permit area in any way that is not inconsistent with the

holder's rights and privileges under this permit, after consultation with all parties involved. Except for any restrictions that the holder and the authorized officer agree are necessary to protect the installation and operation of authorized temporary improvements, the lands and waters covered by this permit shall remain open to the public for all lawful purposes.

H. ASSIGNABILITY. This permit is not assignable or transferable.

I. TRANSFER OF TITLE TO THE IMPROVEMENTS.

1. Notification of Transfer. The holder shall notify the authorized officer when a transfer of title to all or part of the authorized improvements is planned.

2. Transfer of Title. Any transfer of title to the improvements covered by this permit shall result in termination of the permit. The party who acquires title to the improvements must submit an application for a permit. The Forest Service is not obligated to issue a new permit to the party who acquires title to the improvements. The authorized officer shall determine that the applicant meets requirements under applicable federal regulations.

J. CHANGE IN CONTROL OF THE BUSINESS ENTITY.

1. Notification of Change in Control. The holder shall notify the authorized officer when a change in control of the business entity that holds this permit is contemplated.

(a). In the case of a corporation, control is an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation.

(b). In the case of a partnership, limited partnership, joint venture, or individual entrepreneurship, control is a beneficial ownership of or interest in the entity or its capital so as to permit the exercise of managerial authority over the actions and operations of the entity.

(c). In other circumstances, control is any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

2. Effect of Change in Control. Any change in control of the business entity as defined in paragraph 1 of this clause shall result in termination of this permit. The party acquiring control must submit an application for a special use permit. The Forest Service is not obligated to issue a new permit to the party who acquires control. The authorized officer shall determine whether the applicant meets the requirements established by applicable federal regulations.

II. IMPROVEMENTS

A. LIMITATIONS ON USE. Nothing in this permit gives or implies permission to build or maintain any structure or facility or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer.

B. PLANS. All plans for development, layout, construction, reconstruction, or alteration of improvements in the permit area, as well as revisions to those plans must be prepared by a professional engineer, architect, landscape architect, or other qualified professional based on federal employment standards acceptable to the authorized officer. These plans and plan revisions must have written approval from the authorized officer before they are implemented. The authorized officer may require the holder to furnish as-built plans, maps, or surveys upon completion of the work.

C. CONSTRUCTION. Any construction authorized by this permit shall commence by N/A and shall be completed by N/A.

III. OPERATIONS.

A. PERIOD OF USE. Use or occupancy of the permit area shall be exercised at least 365 days each year.

B. CONDITION OF OPERATIONS. The holder shall maintain the authorized improvements and permit area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this permit. Standards are subject to periodic change by the authorized officer when deemed necessary to

meet statutory, regulatory, or policy requirements or to protect national forest resources. The holder shall comply with inspection requirements deemed appropriate by the authorized officer.

C. OPERATING PLAN. The holder shall prepare and annually revise by April 15 an operating plan. The operating plan shall be prepared in consultation with the authorized officer or the authorized officer's designated representative and shall cover all operations authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's operations for compliance with the terms and conditions of this permit. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer's designated representative prior to commencement of operations and shall be attached to this permit as an appendix. The authorized officer may require an annual meeting with the holder to discuss the terms and conditions of the permit or operating plan, annual use reports, or other concerns either party may have.

D. MONITORING BY THE FOREST SERVICE. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permit area and transmission facilities at any time for compliance with the terms of this permit. The holder shall comply with inspection requirements deemed appropriate by the authorized officer. The holder's obligations under this permit are not contingent upon any duty of the Forest Service to inspect the permit area or transmission facilities. A failure by the Forest Service or other governmental officials to inspect is not a justification for noncompliance with any of the terms and conditions of this permit.

IV. RIGHTS AND LIABILITIES

A. LEGAL EFFECT OF THE PERMIT. This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR 214 and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

B. VALID EXISTING RIGHTS. This permit is subject to all valid existing rights. Valid existing rights include those derived under mining and mineral leasing laws of the United States. The United States is not liable to the holder for the exercise of any such right.

C. ABSENCE OF THIRD-PARTY BENEFICIARY RIGHTS. The parties to this permit do not intend to confer any rights on any third party as a beneficiary under this permit.

D. SERVICES NOT PROVIDED. This permit does not provide for the furnishing of road or trail maintenance, water, fire protection, search and rescue, or any other such service by a government agency, utility, association, or individual.

E. RISK OF LOSS. The holder assumes all risk of loss associated with use or occupancy of the permit area, including but not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If authorized temporary improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

F. DAMAGE TO UNITED STATES PROPERTY. The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States. Damage includes but is not limited to fire suppression costs and damage to government-owned improvements covered by this permit.

1. The holder shall be liable for all injury, loss, or damage, including fire suppression, prevention and control of the spread of invasive species, or other costs in connection with rehabilitation or restoration of natural resources resulting from the use or occupancy authorized by this permit. Compensation shall include but not be limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all administrative, legal (including attorney's fees), and other costs. Such costs may be deducted from a performance bond required under clause IV.J.

2. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States to the same extent as provided under clause IV.F.1, except that liability shall not include reasonable and ordinary wear and tear.

G. HEALTH AND SAFETY. The holder shall take all measures necessary to protect the health and safety of all persons

affected by the use and occupancy authorized by this permit. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during the term of this permit that causes or threatens to cause a hazard to the health or safety of the public or the holder's employees or agents. The holder shall as soon as practicable notify the authorized officer of all serious accidents that occur in connection with these procedures, activities, events, or conditions. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

H. ENVIRONMENTAL PROTECTION.

1. For purposes of clause IV.H and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

2. The holder shall avoid damaging or contaminating the environment, including but not limited to the soil, vegetation (such as trees, shrubs, and grass), surface water, and groundwater, during the holder's use and occupancy of the permit area. Environmental damage includes but is not limited to all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. If the environment or any government property covered by this permit becomes damaged in connection with the holder's use and occupancy, the holder shall as soon as practicable repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.

3. The holder shall as soon as practicable, as completely as possible, and in compliance with all applicable laws and regulations abate any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during or after the term of this permit that causes or threatens to cause harm to the environment, including areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources.

I. INDEMNIFICATION OF THE UNITED STATES. The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use or occupancy authorized by this permit. This indemnification provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees in connection with the use or occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may in the future become applicable; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous materials, pollutant, contaminant, oil in any form, or petroleum product into the environment. The authorized officer may prescribe terms that allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions to mitigate damages in addition to or as an alternative to monetary indemnification.

J. BONDING. The authorized officer may require the holder to furnish a surety bond or other security for any of the obligations imposed by the terms and conditions of this permit or any applicable law, regulation, or order.

V. RESOURCE PROTECTION

A. COMPLIANCE WITH ENVIRONMENTAL LAWS. The holder shall in connection with the use or occupancy authorized by this permit comply with all applicable federal, state, and local environmental laws and regulations, including but not limited to those established pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., the Oil Pollution Act, as amended, 33 U.S.C. 2701 et seq., the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., CERCLA, as amended, 42 U.S.C. 9601 et seq., the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 et seq., and the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq.

B. VANDALISM. The holder shall take reasonable measures to prevent and discourage vandalism and disorderly conduct and when necessary shall contact the appropriate law enforcement officer.

C. PESTICIDE USE.

1. Authorized Officer Concurrence. Pesticides may not be used outside of buildings in the permit area to control pests, including undesirable woody and herbaceous vegetation (including aquatic plants), insects, birds, rodents, or fish without prior written concurrence of the authorized officer. Only those products registered or otherwise authorized by the U.S. Environmental Protection Agency and appropriate State authority for the specific purpose planned shall be authorized for use within areas on National Forest System lands.

2. Pesticide-Use Proposal. Requests for concurrence of any planned uses of pesticides shall be provided in advance using the Pesticide-Use Proposal (form FS-2100-2). Annually the holder shall, on the due date established by the authorized officer, submit requests for any new, or continued, pesticide usage. The Pesticide-Use Proposal shall cover a 12-month period of planned use. The Pesticide-Use Proposal shall be submitted at least 60 days in advance of pesticide application. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests require control measures which were not anticipated at the time a Pesticide-Use Proposal was submitted.

3. Labeling, Laws, and Regulations. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers. No pesticide waste, excess materials, or containers shall be disposed of in any area administered by the Forest Service.

D. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES. The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall follow the applicable inadvertent discovery protocols for the undertaking provided in an agreement executed pursuant to section 106 of the National Historic Preservation Act, 54 U.S.C. 306108; if there are no such agreed-upon protocols, the holder shall leave these discoveries intact and in place until consultation has occurred, as informed, if applicable, by any programmatic agreement with tribes. Protective and mitigation measures developed under this clause shall be the responsibility of the holder. However, the holder shall give the authorized officer written notice before implementing these measures and shall coordinate with the authorized officer for proximate and contextual discoveries extending beyond the permit area.

E. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA). In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall follow the applicable NAGPRA protocols for the undertaking provided in the NAGPRA plan of action or the NAGPRA comprehensive agreement; if there are no such agreed-upon protocols, the holder shall as soon as practicable notify the authorized officer of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the forest archaeologist certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a binding written agreement has been executed between the Forest Service and the affiliated Indian tribes that adopts a recovery plan for the human remains and objects.

F. PROTECTION OF THREATENED AND ENDANGERED SPECIES, SENSITIVE SPECIES, AND SPECIES OF CONSERVATION CONCERN AND THEIR HABITAT.

1. Threatened and Endangered Species and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531 et seq., as amended, or within designated critical habitat shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on listed species or designated critical habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing threatened or endangered species or designated critical habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

2. Sensitive Species and Species of Conservation Concern and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals designated by the Regional Forester as sensitive species or as species of conservation concern pursuant to FSM 2670 shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on sensitive species or species of conservation concern or their habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within

the permit area containing sensitive species or species of conservation concern or their habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

G. SURVEY AND MANAGE SPECIES AND THEIR HABITAT. The location of sites within the permit area occupied by survey and manage species or their habitat shall be shown on a map in an appendix to this permit and may be shown on the ground. The survey and manage species and survey and manage standards and guidelines were established in the 1994 Northwest Forest Plan amendments to all Forest Service land and resource management plans in western Oregon and Washington and northern California, as amended by the January 2001 Record of Decision (2001 ROD). The list of survey and manage species in the 2001 ROD has been amended and is subject to periodic amendment by the Forest Service. Per the 2001 ROD, before conducting habitat-disturbing activities in the permit area, the holder shall perform a survey and shall implement appropriate survey and manage standards and guidelines identified by the authorized officer to provide for a reasonable assurance of species persistence. Discovery by the holder or the Forest Service of other sites within the permit area containing survey and manage species or their habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

H. CONSENT TO STORE HAZARDOUS MATERIALS. The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include, or in the case of approval provided after this permit is issued, shall be amended to include specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored, the volume, the type of storage, and a spill plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

I. CLEANUP AND REMEDIATION.

1. The holder shall immediately notify all appropriate response authorities, including the National Response Center and the authorized officer or the authorized officer's designated representative, of any oil discharge or of the release of a hazardous material in the permit area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153, Subpart B, and 40 CFR Part 302. For the purposes of this requirement, "oil" is as defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The holder shall immediately notify the authorized officer or the authorized officer's designated representative of any release or threatened release of any hazardous material in or near the permit area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.

2. Except with respect to any federally permitted release as that term is defined under Section 101(10) of CERCLA, 42 U.S.C. 9601(10), the holder shall clean up or otherwise remediate any release, threat of release, or discharge of hazardous materials that occurs either in the permit area or in connection with the holder's activities in the permit area, regardless of whether those activities are authorized under this permit. The holder shall perform cleanup or remediation immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the cleanup or remediation to the satisfaction of the authorized officer and at no expense to the United States. Upon revocation or termination of this permit, the holder shall deliver the site to the Forest Service free and clear of contamination.

VI. LAND USE FEE AND DEBT COLLECTION

A. LAND USE FEES. The use or occupancy authorized by this permit is exempt from a land use fee or the land use fee has been waived in full pursuant to 36 CFR 251.57 and Forest Service Handbook 2709.11, Chapter 30.

B. MODIFICATION OF THE LAND USE FEE. The land use fee may be revised whenever necessary to reflect the market value of the authorized use or occupancy or when the fee system used to calculate the land use fee is modified or replaced.

C. FEE PAYMENT ISSUES.

1. Crediting of Payments. Payments shall be credited on the date received by the deposit facility, except that if a payment is received on a non-workday, the payment shall not be credited until the next workday.

2. Disputed Fees. Fees are due and payable by the due date. Disputed fees must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

3. Late Payments

(a) Interest. Pursuant to 31 U.S.C. 3717 et seq., interest shall be charged on any fee amount not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published annually or quarterly by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. Interest on the principal shall accrue from the date the fee amount is due.

(b) Administrative Costs. If the account becomes delinquent, administrative costs to cover processing and handling the delinquency shall be assessed.

(c) Penalties. A penalty of 6% per annum shall be assessed on the total amount that is more than 90 days delinquent and shall accrue from the same date on which interest charges begin to accrue.

(d) Termination for Nonpayment. This permit shall terminate without the necessity of prior notice and opportunity to comply when any permit fee payment is 90 calendar days from the due date in arrears. The holder shall remain responsible for the delinquent fees.

4. Administrative Offset and Credit Reporting. Delinquent fees and other charges associated with the permit shall be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 et seq. and common law. Delinquencies are subject to any or all of the following:

(a) Administrative offset of payments due the holder from the Forest Service.

(b) If in excess of 60 days, referral to the United States Department of the Treasury for appropriate collection action as provided by 31 U.S.C. 3711(g)(1).

(c) Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 et seq.

(d) Disclosure to consumer or commercial credit reporting agencies.

VII. REVOCATION, SUSPENSION, AND TERMINATION

A. REVOCATION AND SUSPENSION. The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state, or local law.
2. For noncompliance with the terms of this permit.
3. For abandonment or other failure of the holder to exercise the privileges granted.
4. With the consent of the holder.
5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VII.B, the authorized officer shall give the holder written notice of the grounds for revocation or suspension and a reasonable period, typically not to exceed 90 days, to cure any noncompliance.

B. IMMEDIATE SUSPENSION. The authorized officer may immediately suspend this permit in whole or in part when necessary to protect public health or safety or the environment. The suspension decision shall be in writing. The holder may request an on-site review with the authorized officer's supervisor of the adverse conditions prompting the suspension. The authorized officer's supervisor shall grant this request within 48 hours. Following the on-site review, the authorized officer's supervisor shall promptly affirm, modify, or cancel the suspension.

C. APPEALS AND REMEDIES. Written decisions by the authorized officer relating to administration of this permit are subject to administrative appeal pursuant to 36 CFR Part 214, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service.

D. TERMINATION. This permit shall terminate when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. Examples include but are not limited to expiration of the permit by its terms on

a specified date and termination upon change of control of the business entity. Termination of this permit shall not require notice, a decision document, or any environmental analysis or other documentation. Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

E. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT ISSUANCE OF A NEW PERMIT.

Upon revocation or termination of this permit without issuance of a new permit, the holder shall remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and shall restore the site to the satisfaction of the authorized officer. If the holder fails to remove all structures and improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

VIII. MISCELLANEOUS PROVISIONS

A. MEMBERS OF CONGRESS. No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

B. CURRENT ADDRESSES. The holder and the Forest Service shall keep each other informed of current mailing addresses, including those necessary for billing and payment of land use fees.

C. SUPERSEDED PERMIT. This permit supersedes a special use permit designated **CLACKAMAS, COUNTY OF, ZIG142, dated 04/24/2008.**

D. SUPERIOR CLAUSES. If there is a conflict between any of the preceding printed clauses and any of the following clauses, the preceding printed clauses shall control.

E. NONDISCRIMINATION.

1. The holder and its employees shall not discriminate against any person on the basis of race, color, sex (in educational activities), national origin, age, or disability or by curtailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally. In addition, the holder and its employees shall comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments of 1972, as amended, and the Age Discrimination Act of 1975, as amended.

2. The holder shall include and require compliance with the above nondiscrimination provisions in any third-party agreement made with respect to the operations authorized under this permit.

3. The Forest Service shall furnish signs setting forth this policy of nondiscrimination. These signs shall be conspicuously displayed at the public entrance to the premises and at other exterior or interior locations, as directed by the Forest Service.

4. The Forest Service shall have the right to enforce the foregoing nondiscrimination provisions by suit for specific performance or by any other available remedy under the laws of the United States or the State in which the violation occurs.

F. EQUAL ACCESS TO FEDERAL PROGRAMS. In addition to the above nondiscrimination policy, the holder agrees to ensure that its programs and activities are open to the general public on an equal basis and without regard to any non-merit factor.

G. NOXIOUS WEED AND EXOTIC PLANT PREVENTION AND CONTROL. The holder shall be responsible for the prevention and control of noxious weeds and exotic plants arising from the authorized use. For purposes of this clause, noxious weeds and exotic plants include those species recognized as such by Federal, State, or local agency. The holder shall follow prevention and control measures required by Federal, State, or local agency. When determined to be necessary by the Authorized Officer, the holder shall develop a plan for noxious weed and exotic plant prevention and control. These plans must have prior written approval from the Authorized Officer and, upon approval, shall be attached to this permit as an appendix.

H. HERBICIDE AND PESTICIDE USE. Herbicides and pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation, aquatic plants, insects, rodents, or fish without the prior written approval of the Authorized Officer. A request for approval of planned uses of pesticides shall be submitted annually by the holder on

the due date established by the Authorized Officer. The report shall cover a 12-month period of planned use beginning 3 months after the reporting date. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests require control measures which were not anticipated at the time an annual report was submitted. Only those materials registered by the U.S. Environmental Protection Agency for the specific purpose planned shall be authorized for use on National Forest System lands. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers.

I. SIGNS. Signs or advertising devices erected on National Forest System lands shall have prior approval by the Forest Service as to location, design, size, color, and message. Erected signs shall be maintained or renewed as necessary to neat and presentable standards, as determined by the Forest Service.

THIS PERMIT IS ACCEPTED SUBJECT TO ALL ITS TERMS AND CONDITIONS.

BEFORE ANY PERMIT IS ISSUED TO AN ENTITY, DOCUMENTATION MUST BE PROVIDED TO THE AUTHORIZED OFFICER OF THE AUTHORITY OF THE SIGNATORY FOR THE ENTITY TO BIND IT TO THE TERMS AND CONDITIONS OF THE PERMIT.

ACCEPTED:

TOOTIE SMITH
BOARD OF COMMISSIONERS CHAIR

CLACKAMAS COUNTY	SIGNATURE	DATE
-------------------------	-----------	------

APPROVED:

BILL WESTBROOK
DISTRICT RANGER

MT. HOOD NATIONAL FOREST	SIGNATURE	DATE
--------------------------	-----------	------

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and, where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

Appendix A
County of Clackamas
ZIG320
45.302318, -121.745966



Google Maps
11/23/2020

Appendix A
County of Clackamas
ZIG320
45.302672, -121.771540



Google Maps
11/23/20

ZIG320 -Supplemental Photos Appendix A

Coordinates: 45.302318, -121.745966



Coordinates: 45.302672, -121.771540



Appendix B
County of Clackamas - ZIG320
Government Camp Community Signs
2020-2028

NOTICE OF GENERAL MAINTENANCE

All non-emergency repairs will take place only after contacting the Authorized Officer at:

U.S. Forest Service
Zigzag Ranger Station
70220 US-26
Zigzag, OR 97049
503-622-3191

NOTICE OF EMERGENCY MAINTENANCE

The permit holder shall notify the Authorized Officer of the location of any emergency, any actions taken in response, and any plans for related activities in the area as soon as possible, but no later than 48 hours after the response action.

During business hours:

U.S. Forest Service
Zigzag Ranger Station
70220 US-26
Zigzag, OR 97049
503-622-3191

After hours:

Columbia Cascade Communication Center
10600 NE 51st Circle
Vancouver, Washington, 98682
Phone: 360-891-5140

Painting, Repair and Maintenance

Any painting, repair or maintenance of the signs that involves changes to color, material, structure, or any other aspect of the signs is not permitted without authorization.

**Best Management Practices for
Soil Disturbing Actions during Dry Season Conditions
(June 16th – October 14th)**

Important Note: These Best Management Practices (BMP’s) apply to those projects which must be completed during the “dry” season period (June 16th – October 14th). You or your contractor must contact the Forest Service 48 hours before beginning work to allow us to be present during the project implementation. Please contact us by email at the following address, nathan.fletcher@usda.gov.

Rules for Proceeding with Ground Disturbance

The ground disturbance work will only proceed when ground conditions are suitable. The intent is to minimize sediment impact in critical riparian areas with highly sensitive species.

1. **You are not authorized to proceed until an appropriate weather window exists.** You are required to check the following sources of information to determine when an appropriate weather window exists:
 - a) **You are not authorized to begin the project** if the National Weather Service predicts a 50% or higher chance of more than one inch of total of precipitation during the entire project timeline, or when streamflow at the Bull Run River gaging station exceeds 200 CFS on the start date of the project.
 - b) For a project timeline lasting more than 2 days, you must supplement the National Weather Service’s forecast by using NOAA’s Ready Meteogram to determine the long-term weather outlook. Follow these steps on the website for precipitation information:
 1. Latitude = 45.34, Longitude = -121.94
 2. Choose GFS Model (1 degree, 192-384h, 12 hrly)
 3. Leave the default of 12 UTC/today’s date
 4. Choose 12 hr Accumulated Precipitation for the graph.
 - You are not authorized to begin the project** if more than one inch of total rainfall is forecasted during the project timeline.
 - c. **You are not authorized to begin the project** if the Log Creek Weather Station¹ shows more than one inch of rain has fallen in the last 24 hours. If Log Creek Weather Station is not operational use South Fork Bull Run Weather Station².
 - d. **You are not authorized to begin the project** if the project cannot be completed with all proper erosion measures in place at least 24 hours before a prediction of at least one inch of precipitation.

¹ <https://www.wrh.noaa.gov/mesowest/getobext.php?wfo=pqr&sid=LGFO3&num=48&raw=0&banner=off>

² <https://www.wrh.noaa.gov/mesowest/getobext.php?wfo=pqr&sid=SFBO3&num=48&raw=0&banner=off>

2. In the event that the weather changes and more than one inch of rain is predicted by the National Weather Service (see details above) during project construction, the project must be suspended and all spoils or fill should be covered by a tarp **or** by weed free straw **or** mulch as described below. The project may proceed only after the daily river level at Bull Run returns to below 200 CFS and less than one total inches of rain is predicted for the remainder of the project timeline.

Rules for Equipment and Erosion Measures during Construction

1. Oregon State Certified weed-free straw **or** mulch must be present on the project prior to any excavation. Disturbed areas must be mulched immediately after project completion if more than one inch of rain is predicted in the next 48 hours. For all other projects, straw or mulch must be placed on disturbed ground within 48 hours of project completion to mitigate any potential erosion into the surrounding environment. Apply Woodstraw⁴ at a rate to achieve 70% ground cover (approximately 7 tons per acre) or certified weed free annual ryegrass straw or spring wheat straw to a depth of two inches with no visible mineral soil.
2. Equipment operators must use the **minimum sized equipment** necessary to complete the job, in order to minimize ground disturbance. This is not necessarily the minimum size of equipment that a contractor owns, because a particular contractor may not own the proper size of equipment to perform minimum ground disturbing activity. Therefore, cabin owners are responsible for hiring a contractor who owns or will acquire the proper minimum size of the equipment that could accomplish the work. This includes using small excavator buckets, and hand digging trench lines where mature tree roots may be impacted or when working in a confined area. Every effort should be made to minimize impacts to existing vegetation, especially mature trees and their root systems.
3. Fill will be piled on level ground away from steep breaks in the terrain to minimize surface flow of silted rainwater run-off into nearby water-bodies. Excess fill produced by excavation should be evenly distributed on ground disturbed by the project.
4. If large boulders or downed wood are excavated or moved during the process they should be evenly distributed throughout the disturbed area to achieve a pre-disturbance “natural” look.
5. Fill and any gravel work will be compacted as much as possible to prevent erosion.
6. If specified in the design criteria, place sediment barriers prior to construction around sites where excavation spoils or erosion may enter streams or wetlands directly or through road ditches. Maintain these throughout construction and use redundant filter materials (such as straw bales or straw wattles) to reduce offsite soil movement.
7. If specified, impacted areas must be seeded **within 2 weeks of project completion with native grass** seed from the appropriate seed zone at a rate specified by the District Botanist.

Noxious Weed Prevention

1. The contractor shall clean all mud, dirt, seeds, and plants from all equipment prior to entry onto National Forest Lands at no additional cost to the Government. All equipment coming from outside the State of Oregon, including lowboys and trucks, shall be washed prior to entering the National Forest Lands.
2. Only State of Oregon Certified weed free straw, seed and mulch will be used on National Forest Lands.

Pollution Prevention

1. All equipment operating on the site area will be in good repair and will be free of abnormal leakage of lubricants, fuel, coolants, and hydraulic fluid.
2. Place vehicle staging, maintenance, refueling, and fuel storage areas as far as possible from any water body depending on site conditions. When immobile power equipment is refueled, use absorbent pads or other chemical containment devices (for example, spill containment tray with absorbent pad or a hole in the ground lined with plastic and absorbent pads) to contain spills.
3. Operators shall take appropriate preventive measures to ensure that any spill of oil, oil products, or other hazardous material does not enter any stream or other waters of the United States or any of the individual States. In the event of such a contaminant spill the operator will take all reasonable action to contain same.
4. All contaminated soil, vegetation and debris shall be removed to approved locations off National Forest lands.

Best Management Practices for Soil Disturbing Actions during Wet Season Conditions (October 15th – June 15th)

Important Note: These Best Management Practices (BMP's) apply to those projects which must be completed during the "wet" season period (October 15th – June 15th). You or your contractor must contact the Forest Service 48 hours before beginning work to allow us to be present during the project implementation. Please contact us by email at the following address, nathan.fletcher@usda.gov.

Rules for Proceeding with Ground Disturbance

The ground disturbance work will only proceed when ground conditions are suitable. The intent is to minimize sediment impact in critical riparian areas with highly sensitive species.

1. **You are not authorized to proceed until an appropriate weather window exists.** You are required to check the following sources of information to determine when an appropriate weather window exists:

a) **You are not authorized to begin the project** if the National Weather Service³ predicts a 50% or higher chance of at least 1/2 inches total of precipitation during the entire project timeline, or when streamflow at the Bull Run River gaging station¹ above the reservoirs exceeds 10% of the median daily river level on the start date of the project.

b) For a project timeline lasting more than 2 days, you must supplement the National Weather Service's forecast by using NOAA's Ready Meteogram⁴ to determine the long-term weather outlook. Follow these steps on the website for precipitation information:

1. Latitude = 45.34, Longitude = -121.94
2. Choose GFS Model (1 degree, 192-384h, 12 hrly)
3. Leave the default of 12 UTC/today's date
4. Choose 12 hr Accumulated Precipitation for the graph.

You are not authorized to begin the project if more than 1/2 inch of total rainfall is forecasted during the project timeline.

c. **You are not authorized to begin the project** if the Log Creek Weather Station shows more than 1/2 inch of rain has fallen in the last 24 hours. If Log Creek Weather Station is not operational use South Fork Bull Run Weather Station.

d. **You are not authorized to begin the project** if the project cannot be completed with all proper erosion measures in place at least 24 hours before a prediction of at least 1/2 inch of precipitation.

2. In the event that the weather changes and more than 1/2 inch of rain is predicted by the National Weather Service (see details above) during project construction, the project must be suspended and all spoils or fill should be covered by a tarp **or** by weed free straw **or** mulch as described below. The project may proceed only after the daily river level at Bull Run returns to within 10% of the median, or when less than 1/2 total inches of rain is predicted for the remainder of the project timeline.

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2. Equipment operators must use the **minimum sized equipment** necessary to complete the job, in order to minimize ground disturbance. This is not necessarily the minimum size of equipment that a contractor owns, because a particular contractor may not own the proper size of equipment

³ http://waterdata.usgs.gov/or/nwis/uv?cb_00065=on&cb_00060=on&format=gif_default&period=21&site

⁴ <https://ready.arl.noaa.gov/READYcmct.php>

to perform minimum ground disturbing activity. Therefore, cabin owners are responsible for hiring a contractor who owns or will acquire the proper minimum size of the equipment that could accomplish the work. This includes using small excavator buckets, and hand digging trench lines where mature tree roots may be impacted or when working in a confined area. Every effort should be made to minimize impacts to existing vegetation, especially mature trees and their root systems.

3. Fill will be piled on level ground away from steep breaks in the terrain to minimize surface flow of silted rainwater run-off into nearby water-bodies. Excess fill produced by excavation should be evenly distributed on ground disturbed by the project.

4. If large boulders or downed wood are excavated or moved during the process they should be evenly distributed throughout the disturbed area to achieve a pre-disturbance “natural” look.

5. Fill and any gravel work will be compacted as much as possible to prevent erosion.

6. If specified in the design criteria, place sediment barriers prior to construction around sites where excavation spoils or erosion may enter streams or wetlands directly or through road ditches. Maintain these throughout construction and use redundant filter materials (such as straw bales or silt fencing) to reduce offsite soil movement.

7. If specified, impacted areas must be seeded **within 2 weeks of project completion with native grass** seed from the appropriate seed zone at a rate specified by the District Botanist.

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Pollution Prevention

1. All equipment operating on the site area will be in good repair and will be free of abnormal leakage of lubricants, fuel, coolants, and hydraulic fluid.

2. Place vehicle staging, maintenance, refueling, and fuel storage areas as far as possible from any water body depending on site conditions. When immobile power equipment is refueled, use absorbent pads or other chemical containment devices (for example, spill containment tray with absorbent pad or a hole in the ground lined with plastic and absorbent pads) to contain spills.

3. Operators shall take appropriate preventive measures to ensure that any spill of oil, oil products, or other hazardous material does not enter any stream or other waters of the United States or any of the individual States. In the event of such a contaminant spill the operator will take all reasonable action to contain same.

4. All contaminated soil, vegetation and debris shall be removed to approved locations off National Forest lands.

Any activities not listed above in this plan must be approved by the Zigzag District Ranger.



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Resolution Approving a Land Division and Conveyance and Delegating Authority to the Director of the Department of Transportation and Development to Execute the Same

Purpose/Outcomes	The resolution approves a partition plat and subsequent conveyance of real property to Gustafson Real Estate, LLC
Dollar Amount and Fiscal Impact	No funds are required for this transaction
Funding Source	Not applicable
Duration	The partition plat and the conveyance of real property will be effective into perpetuity.
Previous Board Action	<ul style="list-style-type: none"> • 5-21-2015 - Approved Resolution of Necessity for Eminent Domain Actions • 10-29-2015 - Approved Resolution of Necessity for Eminent Domain Actions • 10-12-2017 – Declaring the Realignment of SE Otty Road to be County Road No. 196 was approved by the Board • 5-3-2018 – Acknowledging and Accepting Easement Dedications and the Simultaneous Vacation of a Portion of Otty Street was approved by the Board • 9-6-2018 – Correction of Board Order 2018-031 was approved by the Board • 3-12-2020 – Withdrawal of County Road Status of a portion of Otty Street was approved by the Board
Strategic Plan Alignment	Build public trust through good government and build a strong infrastructure
Procurement Review	1. Was this item processed through Procurement? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no If no, provide a brief explanation: Not required
Counsel Review	Reviewed and approved by County Counsel July 27, 2021 NB
Contact Persons	Sharan LaDuca, DTD Sr. Right of Way Agent @ 503-742-4675

Background:

As part of the Otty Street Realignment Project (the “Project”), the Development Agency was required to obtain real property from Gustafson Real Estate, LLC (“Gustafson”) to facilitate the Project improvements. The Development Agency negotiated an agreement with Gustafson Real

Estate, LLC to convey other real property in exchange as part of the consideration for the receipt of the real property needed for the project.

The real property to be conveyed to Gustafson in exchange was obligated to be conveyed when the partition plat of the Otty Street Realignment Project remnants was finished. Several precursor steps to finishing the partition plat including purchasing the remaining right of way for the project, constructing the project, vacating the old Otty Street right of way and accepting the new Otty Road right of way, and the pandemic resulted in a prolonged amount of time.

The partition plat of the Project remnants has been completed and is ready for signature. Once the partition plat has been signed, the Development Agency can convey Parcel 1 to Gustafson.

The Development Agency Board is vested with authority to authorize divisions of land and conveyances of its real property. The Agency Board can also specifically elect to delegate that authority. The resolution approves of the partition plat and subsequent conveyance to Gustafson and authorizes the Director of the Department of Transportation and Development to execute the same.

Recommendation:

Staff respectfully recommends that the Board approve the Resolution approving the land division and conveyance and delegation of authority to the Director of the Department of Transportation and Development to execute the same.

Sincerely,

Sharan LaDuca

Sharan LaDuca
Senior Right of Way Agent

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

A Resolution Approving a Land Division and Conveyance and Delegating Authority to the Director of the Department of Transportation and Development to Execute the Same



Resolution No. _____

Page 1 of 2

WHEREAS, the Board, acting as the governing body of the Clackamas County Development Agency, the urban renewal agency for Clackamas County (the "Agency Board"), authorized a project in 2015 for purposes of realigning Otty Street, which is a County Road, (the "Project"); and

WHEREAS, as part of the Project, the Development Agency was required to obtain property from certain property owners, including Gustafson Real Estate, LLC, to facilitate the Project improvements; and

WHEREAS, negotiations with Gustafson Real Estate, LLC produced an obligations agreement, dated January 4, 2016 and attached hereto as Exhibit A, whereby the Development Agency agreed to convey certain real property in exchange as part of the consideration for the receipt of other real property needed for the Project; and

WHEREAS, the portion of real property to be conveyed to Gustafson Real Estate, LLC needs to be legally partitioned prior to any conveyance and that an illustration of the proposed partition is attached hereto as Exhibit B; and

WHEREAS, the Agency Board is vested with authority to authorize divisions of land and conveyances of its real property, unless the Agency Board specifically elects to delegate that authority; and

WHEREAS, the Agency Board wishes to delegate its authority to the Director of the Department of Transportation and Development, who acts as the Manager of the Development Agency, to execute the plat and deed necessary to finalize the division of the Development Agency property described herein, and to convey the resultant parcel of real property, as more particularly described in the obligations agreement referenced above.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

A Resolution Approving a Land Division and Conveyance and Delegating Authority to the Director of the Department of Transportation and Development to Execute the Same



Resolution No. _____
Page 2 of 2

NOW, THEREFORE, the Clackamas County Board of Commissioners, acting as the governing body of the Clackamas County Development Agency, the urban renewal agency for Clackamas County, do hereby resolve:

1. That the land division illustrated on Exhibit B, attached hereto, is hereby authorized and approved; and
2. That the conveyance of certain real property to Gustafson Real Estate, LLC, as set forth in the Obligations Agreement dated January 4, 2016 and attached hereto as Exhibit C, is hereby authorized and approved; and
3. That the Director of the Department of Transportation and Development is authorized to execute any plat, deed, exhibit or other document necessary to complete the land division and conveyance described herein.

Dated this _____ day of August, 2021.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Acting as the Governing Body of the
Clackamas County Development Agency

Chair

Recording Secretary



Exhibit A

DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

COUNTY'S OBLIGATION(S) AGREEMENT

Grantor: Gustafson Real Estate LLC
Address: c/o Larry Gustafson
173 NE 39th Avenue
Hillsboro, OR 97124

Project: Otty Street Realignment
Date: January 4, 2016
File No: 04

Situs: 9907 SE 82nd Avenue
Happy Valley, OR 97086

In addition to the obligations set forth in the County's 40-day offer letter dated January 4, 2016, the additional agreements between the parties:

1. County will deed ownership of 8,448 square feet (more or less) of land to Grantor (Gustafson Real Estate LLC) as indicated on the attached Exhibit "A".
2. Grantor (Gustafson Real Estate LLC) will move the personal property from the Easement areas (i.e. planter boxes, sign, shed) upon receipt of payment for the easements or at a time mutually agreed to in writing.
3. County will install non-permanent curbing and a gate across the throughway between the two businesses instead of the permanent curbing and fence depicted in the current 90% plans.
4. County will pave and construct driveway improvements per the 90% plan sheet #5.5 attached.

If any of the construction under the terms of this agreement is outside of the roadway right of way, including the placement of cut tree sections, Grantor hereby grants County, its employees or contractors, permission to enter upon Grantor's remaining property for the purpose of performing any of said construction work.

It is understood and agreed that County's performance of this Agreement shall constitute a portion of the consideration for the concurrent real property transaction evidenced by easement document(s) between the Grantor and the County. The Grantor shall indicate his or her intention to be bound by this agreement by signing below. This Agreement shall not be effective or binding, however, until Grantor receives written notice from the County accepting the conveyance of the real property interests described in the 40-day offer letter dated January 4, 2016.

This County Obligation(s) Agreement along with the County's initial offer of acquisition as detailed in the County's 40-Day Offer Letter dated January 4, 2016 are the entire, final and complete agreement between the Grantor and the County pertaining to the acquisition of the easement rights, and together they supersede and replace all prior written and oral offers or agreements made between the parties.

Gustafson Real Estate LLC:

Larry A. Gustafson Pres. 1-5-2016
Name Title Date

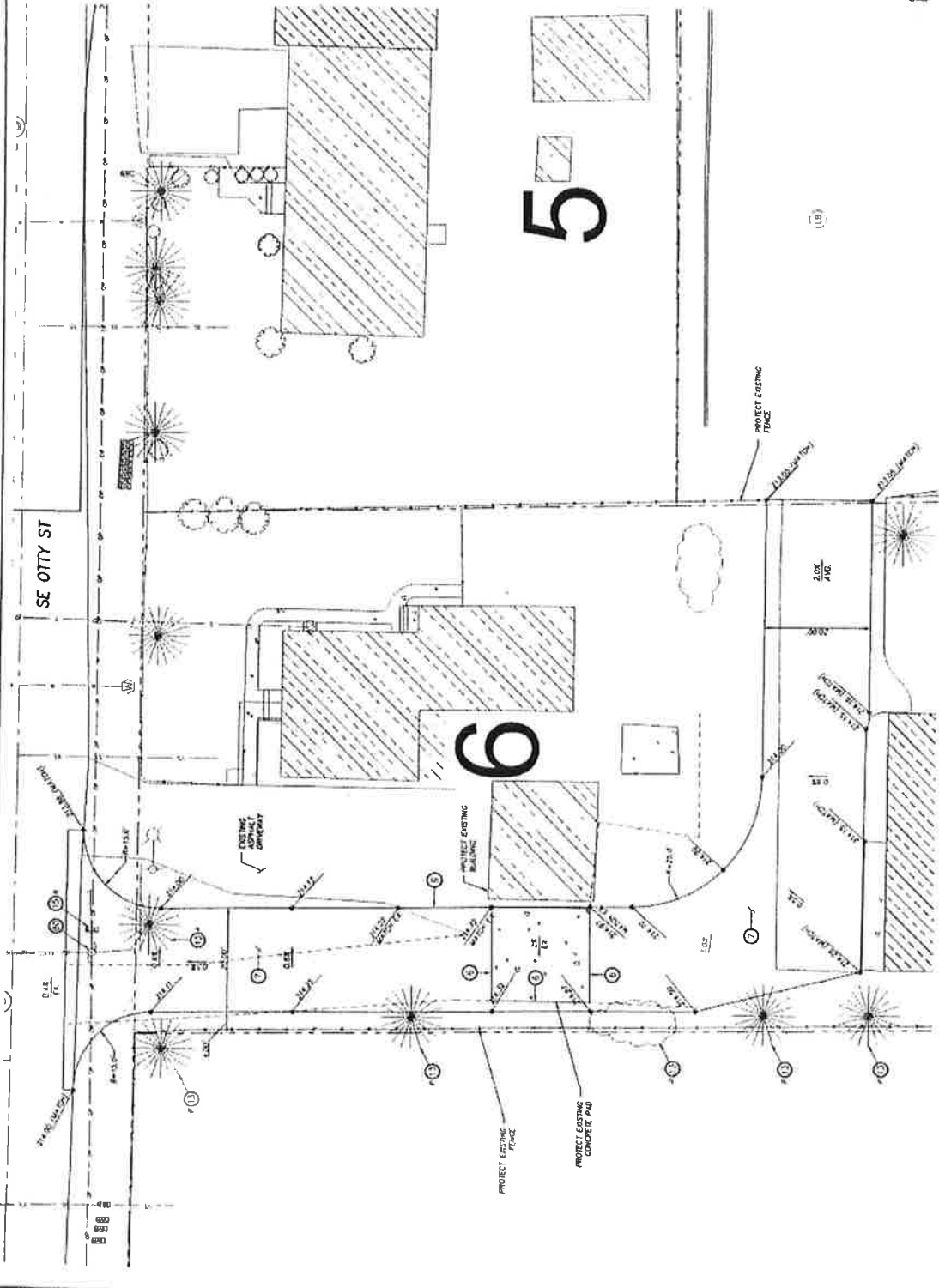
Clackamas County Development Agency:

DJK 1/14/16
Dave Queener, Project Manager Date

CONSTRUCTION NOTES

- ⑤ MATCH NEW CONSTRUCTION TO EXISTING FEATURE, SHOW ONLY AS REQUIRED AND DIMENSIONS.
- ⑥ COMPLETE FINISH CONCRETE FINISHMENT SECTION PER DETAIL ON SHEET 5.5.
- ⑦ MATCH ALL FINISH TO EXISTING FINISH, SHOW ONLY AS REQUIRED AND DIMENSIONS.
- ⑧ TYPICAL FOR ANY EXISTING TREE OR SHRUB THAT REMAINS ALONG BACK OF SIDEWALK COORDINATE WITH ENGINEER PRIOR TO REMOVAL OR TRIMMING.
- ⑨ RELOCATE (R), ADJUST (A), PROTECT (P), OR DIMENSION (D) EXISTING HARDWARES/CONCRETE UTILITY POLES AND STREET LIGHTS. SEE OREGON STANDARD DRAWING R100.
- ⑩ RELOCATE UTILITY POLES AND STREET LIGHTS. RELOCATION BY UTILITY CONTRACTOR TO COORDINATE WITH APPROPRIATE UTILITIES.

NOTE TO REVIEWER:
 A SHEET 5.6 WILL BE ADDED TO SHOW
 A SPOT GRADE ELEVATION GRID AT
 THE INTERSECTION OF OTTY/82ND.

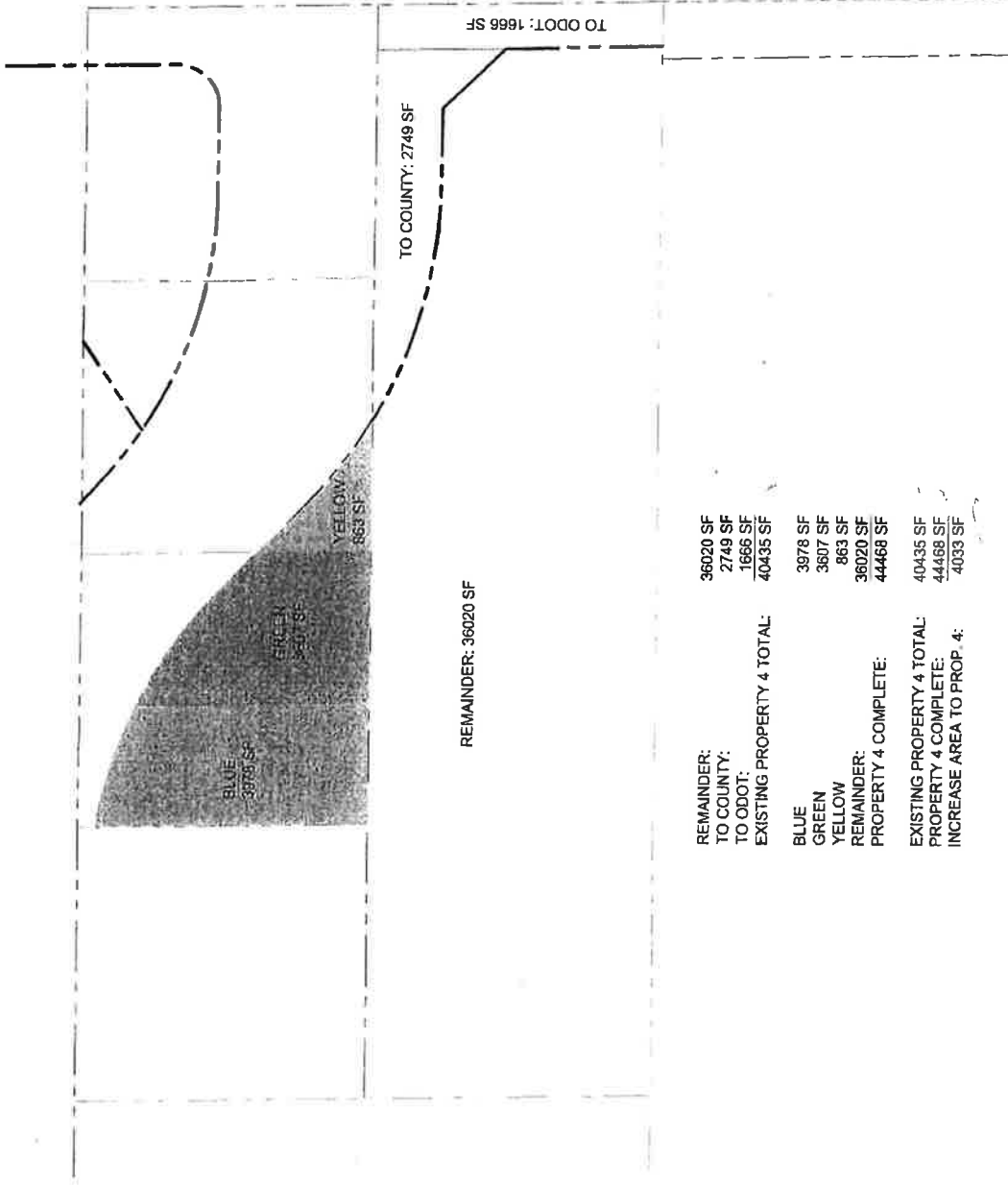


SITE IMPROVEMENT AT PROPERTY 6

90% SUBMITTAL

NO. REVISIONS	PREPARED FOR CLATSOP COUNTY DEPARTMENT OF TRANSPORTATION DEVELOPMENT SERVICES BLDG. 150 BEAVERCREEK ROAD OREGON CITY, OR 97145			SE OTTY STREET REALIGNMENT SITE IMPROVEMENTS CLATSOP COUNTY, OREGON	
				DESIGNED BY DS/HHPR TEAM	CHECKED BY HHPR TEAM
				DATE 10/02/2015	PROJECT NUMBER C0472
				SHEET NO. 5.5	

Exhibit "A"



REMAINDER:	36020 SF
TO COUNTY:	2749 SF
TO ODOT:	1666 SF
EXISTING PROPERTY 4 TOTAL:	40435 SF
BLUE	3978 SF
GREEN	3607 SF
YELLOW	863 SF
REMAINDER:	36020 SF
PROPERTY 4 COMPLETE:	44468 SF
EXISTING PROPERTY 4 TOTAL:	40435 SF
PROPERTY 4 COMPLETE:	44468 SF
INCREASE AREA TO PROP. 4:	4033 SF

PARTITION PLAT
 REPLAT A PORTION OF LOT NO. 47
 PLAT OF "PARK VIEW ACRES", PLAT NO. 417
 LOCATED IN THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 29,
 TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON

SURVEYED: DECEMBER 03, 2020
 CASE FILE NO: 20373-16-M

PLAT NO. _____
 BOOK _____ PAGE _____

SHEET INDEX:

SHEET 1: PARTITION PLAT, LEGEND, REFERENCE SURVEYS LEGEND, MONUMENT LEGEND, REFERENCE POINTS DETAIL 1, CURVE TABLE, SHEET INDEX
 SHEET 2: APPROVALS, DECLARATION, ACKNOWLEDGEMENT, CONSENT AFFIDAVIT, SURVEYORS CERTIFICATE, NARRATIVE

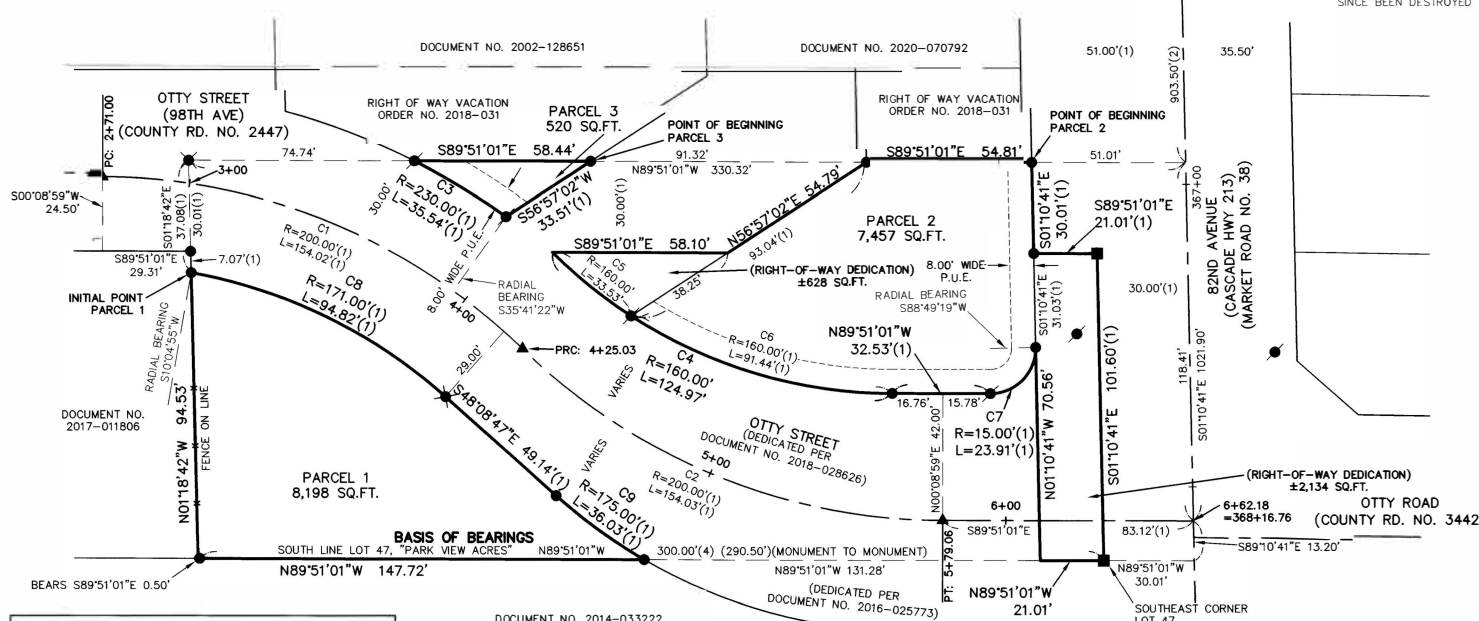
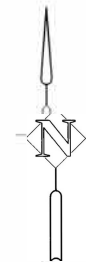
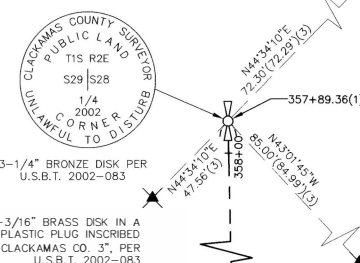
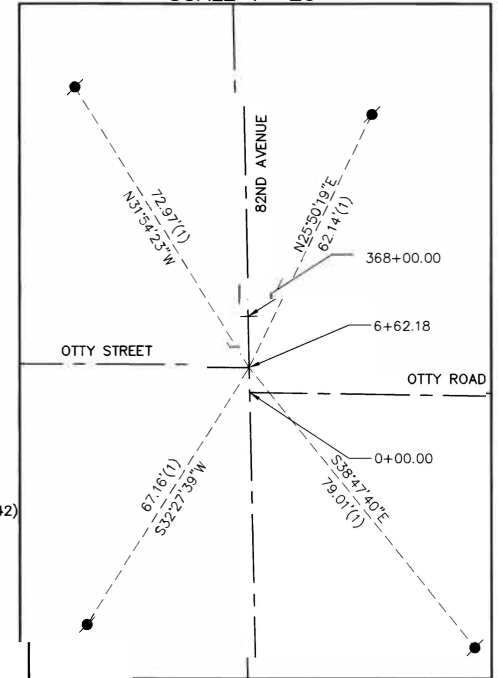
REFERENCE SURVEYS LEGEND:

- #### - MEASURED DISTANCE
- ####(##) - RECORD DISTANCE PER REFERENCE NUMBER (BELOW)
- ####(##) - MEASURED AND RECORD DISTANCE PER REF. NO. (BELOW)
- (1) - RECORD INFORMATION PER (SN 2017-109)
- (2) - RECORD INFORMATION PER (SN 2015-255)
- (3) - RECORD INFORMATION PER (U.S.B.T. ENTRY 2002-083)
- (4) - RECORD INFORMATION PER ("PARK VIEW ACRES", PLAT NO. 417)

MONUMENT LEGEND:

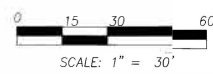
- MONUMENT FOUND AS NOTED
- - FOUND 5/8" X 30" IRON ROD WITH ORANGE PLASTIC CAP MARKED "HHPR INC" PER SN2017-109
- - SET 30mm (1-5/32") BERNTSEN BP1P (COPPER DISK WITH CENTERPUNCH) MARKED "HHPR INC" PER SN2017-109
- - FOUND 5/8" X 30" IRON ROD, ALUMINUM CAP MISSING, PER SN2017-109
- ▲ - SET 5/8" X 30" IRON ROD WITH ORANGE PLASTIC CAP MARKED "HHPR INC", IN CENTERLINE MONUMENT BOX, PER SN2017-109
- ⊗ - FOUND 5/8" X 30" IRON ROD WITH ALUMINUM CAP MARKED "HHPR INC" PER SN2017-109
- - CALCULATED QUARTER SECTION CORNER
- — — — — TIE LINE

**REFERENCE POINTS
 DETAIL 1
 SCALE 1"=20'**



CURVE TABLE				
CURVE	RADIUS	DELTA	LENGTH	LONG CHORD
C1	200.00'(1)	44°07'32"(1)	154.02'(1)	S67°47'15"E, 150.25'(1)
C2	200.00'(1)	44°07'32"(1)	154.03'(1)	S67°47'15"E, 150.25'(1)
C3	230.00'(1)	08°51'13"(1)	35.54'(1)	N58°44'14"W, 35.51'(1)
C4	160.00'	44°45'06"	124.97'	N67°28'28"W, 121.82'
C5	160.00'	12°00'20"	33.53'	W51°06'05"W, 33.46'
C6	160.00'(1)	32°44'47"(1)	91.44'(1)	N73°28'38"W, 90.21'(1)
C7	15.00'(1)	91°19'40"(1)	23.91'(1)	S44°29'09"W, 21.46'(1)
C8	171.00'(1)	31°46'17"(1)	94.82'(1)	S64°01'56"E, 93.61'(1)
C9	175.00'(1)	11°47'48"(1)	36.03'(1)	S54°02'41"E, 35.97'(1)

NOTES, EASEMENTS, CONDITIONS AND RESTRICTIONS
 THIS PARTITION PLAT IS SUBJECT TO THE CONDITIONS OF APPROVAL AS PER CLACKAMAS COUNTY CASE FILE NO. 20373-16-M
 PARCELS 2, AND 3 ARE SUBJECT TO A 8.00 FOOT PUBLIC UTILITY EASEMENT, GRANTED AS SHOWN PER THIS PLAT.



REGISTERED PROFESSIONAL LAND SURVEYOR
Timothy E. Brown
 OREGON
 NOVEMBER 13, 2019
TIMOTHY E. BROWN
 91314
 RENEWS: 12-31-2021

**Harper
 HHPR Houf Peterson
 Righellis Inc.**
 ENGINEERS • PLANNERS
 LANDSCAPE ARCHITECTS • SURVEYORS
 205 SE Spokane Street, Suite 200, Portland, OR 97202
 phone: 503.221.1131 www.hhpr.com fax: 503.221.1171
 SHEET 1 OF 2 TEB 12/10/2020 CLA-72

PARTITION PLAT
REPLAT A PORTION OF LOT NO. 47
PLAT OF "PARK VIEW ACRES", PLAT NO. 417
LOCATED IN THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 29, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON

SURVEYED: DECEMBER 03, 2020
CASE FILE NO: 20373-16-M

PLAT NO. _____
BOOK _____ PAGE _____

CLACKAMAS COUNTY APPROVALS:

APPROVED THIS ____ DAY OF _____, 2021.

BY: _____
CLACKAMAS COUNTY PLANNING DIRECTOR

APPROVED THIS ____ DAY OF _____, 2021.

CLACKAMAS COUNTY SURVEYOR

BY: _____

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS PROVIDED BY ORS 92.095 HAVE BEEN PAID THRU JUNE 30, 2021

APPROVED THIS ____ DAY OF _____, 2021.

CLACKAMAS COUNTY ASSESSOR & TAX COLLECTOR

BY: _____
DEPUTY

STATE OF OREGON }
COUNTY OF CLACKAMAS } SS

I DO HEREBY CERTIFY THAT THE ATTACHED PARTITION PLAT WAS

RECEIVED FOR RECORD ON THE ____ DAY OF _____, 2021.

AT ____ O'CLOCK ____ M.

AS PARTITION PLAT NO. _____

DOCUMENT NO. _____

SHERRY HALL, CLACKAMAS COUNTY CLERK

BY: _____
DEPUTY

SURVEYORS CERTIFICATE:

I, TIMOTHY E. BROWN CERTIFY THAT I HAVE CORRECTLY SURVEYED, AND MARKED WITH PROPER MONUMENTS, THE LANDS REPRESENTED ON THE ATTACHED PARTITION PLAT BEING A PORTION OF DOCUMENT NO. 2015-063564 AND DOCUMENT NO. 2015-009657, CLACKAMAS COUNTY DEED RECORDS, TOGETHER WITH PORTIONS OF VACATED OTTY STREET (COUNTY ROAD NO. 2447) PER CLACKAMAS COUNTY ORDER NO. 2018-031 AND EXCEPTING THEREFROM A PERMANENT RIGHT OF WAY EASEMENT FOR ROAD PURPOSED PER DOCUMENT NO. 2018-028626 CLACKAMAS COUNTY DEED RECORDS, BEING ALSO A PART OF LOT 47, PLAT OF "PARK VIEW ACRES", PLAT NO. 417, CLACKAMAS COUNTY PLAT RECORDS, LOCATED IN THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 29, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INITIAL POINT OF PARCEL 1, SAID POINT BEING ON A NON-TANGENT CURVE TO THE RIGHT, BEING ALSO A 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP INSCRIBED "HHPR INC" LOCATED AT THE INTERSECTION OF THE EAST LINE OF DOCUMENT NO. 2017-011806 CLACKAMAS COUNTY DEED RECORDS AND THE SOUTH RIGHT OF WAY LINE OF OTTY STREET PER SAID DOCUMENT NO. 2018-028626, WHICH BEARS SOUTH 01°10'41" EAST, ALONG THE CENTERLINE OF 82ND AVENUE, 903.50 FEET, TO A POINT AT THE INTERSECTION OF THE PREVIOUSLY VACATED CENTERLINE OF OTTY STREET (COUNTY ROAD NO. 2447), NORTH 89°51'01" WEST, ALONG SAID CENTERLINE, 330.32 FEET TO 5/8" IRON ROD WITH AN ALUMINUM CAP INSCRIBED "HHPR INC" AT THE INTERSECTION OF THE EXTENSION OF THE EAST LINE OF SAID DOCUMENT NO. 2017-011806, SOUTH 01°18'42" EAST, ALONG SAID EXTENSION OF THE EAST LINE, 37.08 FEET FROM THE QUARTER SECTION CORNER COMMON TO SECTIONS 28 AND 29, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON PER U.S.B.T. 2002-083; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE AND AROUND THE SAID CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 31°46'17", THE RADIUS OF WHICH BEARS SOUTH 1°00'45" WEST, HAVING A RADIUS OF 171.00 FEET (LONG CHORD BEARS SOUTH 64°01'56" EAST, 93.61 FEET) A DISTANCE OF 94.82 FEET TO A 30MM (1-5/32") BERNSTEIN BP1P INSCRIBED "HHPR INC"; THENCE SOUTH 48°08'47" EAST 49.14' TO A 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP INSCRIBED "HHPR INC" AND POINT OF CURVE TO THE LEFT; THENCE AROUND SAID CURVE TO THE LEFT CENTRAL ANGLE OF 11°47'48", HAVING A RADIUS OF 175.00 FEET, (LONG CHORD BEARS SOUTH 54°02'41" EAST, 35.97 FEET) A DISTANCE 36.03 FEET TO A 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP INSCRIBED "HHPR INC", BEING A POINT ON THE SOUTH LINE OF SAID LOT 47; THENCE LEAVING SAID RIGHT OF WAY, NORTH 89°51'01" WEST, ALONG SAID SOUTH LINE OF LOT 47, 147.72 FEET TO THE SOUTHEAST CORNER OF DOCUMENT NO. 2017-011806, IN WHICH A 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP INSCRIBED "HHPR INC" BEARS SOUTH 89°51'01" EAST 0.50 FEET; THENCE NORTH 01°18'42" WEST, ALONG THE EAST LINE OF SAID DOCUMENT NO. 2017-011806, 94.53 FEET TO THE INITIAL POINT.

TOGETHER WITH: THE POINT OF BEGINNING OF PARCEL 2, BEING A 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP INSCRIBED "HHPR INC", WHICH BEARS SOUTH 01°10'41" EAST, ALONG THE CENTERLINE OF 82ND AVENUE, 903.50 FEET, TO A POINT AT THE INTERSECTION OF THE PREVIOUSLY VACATED CENTERLINE OF OTTY STREET (COUNTY ROAD NO. 2447), NORTH 89°51'01" WEST, ALONG SAID CENTERLINE OF OTTY STREET (COUNTY ROAD NO. 2447), 51.01 FEET FROM SAID QUARTER SECTION CORNER; THENCE SOUTH 01°10'41" EAST, ALONG SAID WEST RIGHT OF WAY LINE, 30.01 FEET TO A 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP STAMPED "HHPR INC"; THENCE SOUTH 89°51'01" EAST 21.01 FEET TO A 5/8" IRON ROD, THENCE SOUTH 01°10'41" EAST 101.60 FEET TO A 5/8" IRON ROD, BEING THE SOUTHEAST CORNER OF SAID LOT 47; THENCE NORTH 89°51'01" WEST, ALONG SAID SOUTH LINE, 21.01 FEET TO A POINT ON THE EAST LINE OF SAID DOCUMENT NO. 2018-028626; THENCE NORTH 01°10'41" WEST, ALONG SAID EAST LINE, 70.56 FEET TO A 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP STAMPED "HHPR INC" BEING A POINT OF CURVE ON THE NORTH LINE OF DOCUMENT NO. 2018-028626 ALSO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 91°19'40", THE RADIUS OF WHICH BEARS SOUTH 88°49'19" WEST, HAVING A RADIUS OF 15.00 FEET; THENCE AROUND THE SAID CURVE TO THE RIGHT (LONG CHORD BEARS SOUTH 44°29'09" WEST) A DISTANCE OF 23.91 FEET TO A 30MM (1-5/32") BERNSTEIN BP1P INSCRIBED "HHPR INC"; THENCE NORTH 89°51'01" WEST 32.53 FEET TO A 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP STAMPED "HHPR INC" AND A POINT OF A CURVE TO THE RIGHT; THENCE AROUND SAID CURVE TO THE RIGHT (CENTRAL ANGLE OF 44°45'06", RADIUS OF 160.00 FEET, LONG CHORD BEARS NORTH 67°28'28" WEST, 121.82 FEET) A DISTANCE OF 24.97 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF OTTY STREET (COUNTY ROAD NO. 2447); THENCE SOUTH 89°51'01" EAST, ALONG SAID SOUTH RIGHT OF WAY LINE, 58.10 FEET TO A POINT; THENCE NORTH 56°57'02" EAST 54.79 FEET TO 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP STAMPED "HHPR INC", BEING A POINT ON THE CENTERLINE OF OTTY STREET (COUNTY ROAD NO. 2447); THENCE CONTINUING ALONG SAID CENTERLINE SOUTH 89°51'01" EAST 54.81 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH: THE BEGINNING POINT OF PARCEL 3, BEING A 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP INSCRIBED "HHPR INC", ON THE CENTERLINE OF PREVIOUSLY VACATED OTTY STREET (COUNTY ROAD NO. 2447), WHICH BEARS SOUTH 01°10'41" EAST, ALONG THE CENTERLINE OF 82ND AVENUE, 903.50 FEET, NORTH 89°51'01" WEST, ALONG SAID CENTERLINE OF OTTY STREET (COUNTY ROAD NO. 2447), 197.14 FEET FROM SAID QUARTER SECTION CORNER; THENCE LEAVING SAID CENTERLINE, SOUTH 56°57'02" WEST 33.51 FEET TO A POINT ON THE NORTH LINE OF SAID DOCUMENT NO. 2018-028626 AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, AND A 30MM (1-5/32") BERNSTEIN BP1P INSCRIBED "HHPR INC", HAVING A CENTRAL ANGLE OF 08°51'13", THE RADIUS OF WHICH BEARS SOUTH 35°41'22" WEST, HAVING A RADIUS OF 230.00 FEET; THENCE AROUND SAID CURVE TO THE LEFT (THE LONG CHORD OF WHICH BEARS NORTH 58°44'14" WEST, 35.51 FEET) A DISTANCE OF 35.54 FEET TO A 30MM (1-5/32") BERNSTEIN BP1P INSCRIBED "HHPR INC", BEING THE INTERSECTION OF THE SAID NORTH LINE AND THE CENTERLINE OF SAID OTTY STREET (COUNTY ROAD NO. 2447); THENCE, ALONG SAID CENTERLINE, SOUTH 89°51'01" EAST 58.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 18,937 SQUARE FEET, OR 0.43 ACRES, MORE OR LESS.

NARRATIVE:

THE PURPOSE OF THIS SURVEY PARTITION INTO 3 PARCELS THOSE TRACTS OF LAND AS DESCRIBED BY DOCUMENT NO. 2015-063564 AND DOCUMENT NO. 2015-009657, CLACKAMAS COUNTY DEED RECORDS, TOGETHER WITH PORTIONS OF VACATED OTTY STREET (COUNTY ROAD NO. 2447) PER CLACKAMAS COUNTY ORDER NO. 2018-031 AND EXCEPTING THEREFROM A PERMANENT RIGHT OF WAY EASEMENT FOR ROAD PURPOSED PER DOCUMENT NO. 2018-028626, CLACKAMAS COUNTY DEED RECORDS, BEING ALSO A PART OF LOT 47, PLAT OF "PARK VIEW ACRES", PLAT NO. 417, CLACKAMAS COUNTY PLAT RECORDS, LOCATED IN THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 29, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON.

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS PROJECT WAS HELD TO BE NORTH 89°51'01" WEST AS MEASURED ALONG THE SAID SOUTH LINE LOT 47 BETWEEN THE 5/8" IRON ROD AT THE SOUTHEAST CORNER OF SAID LOT 47 AND THE 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP INSCRIBED "HHPR INC." BEARING SOUTH 89°51'01" EAST, 0.50 FEET FROM THE SOUTHWEST CORNER OF SAID LOT 47.

CALCULATED EAST ONE-QUARTER SECTION CORNER FOR SECTIONS 28 AND 29, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN THE EAST ONE-QUARTER QUARTER SECTION CORNER FOR SECTIONS 28 AND 29, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, WAS CALCULATED BY HOLDING FOUND REFERENCE POINTS AND RECORD DATA TO CALCULATE THE LOCATION OF SAID CORNER, PER U.S.B.T. 2002-083 AS SHOWN.

CALCULATED INTERSECTION OF OTTY STREET (DOCUMENT NO. 2018-028626) AND 82ND AVENUE THE INTERSECTION OF OTTY STREET (2018-028626) AND 82ND AVENUE WAS LOCATED BY HOLDING THE FOUND REFERENCE POINTS AND RECORD DATA PER SN 2017-109 TO CALCULATE THE LOCATION OF SAID INTERSECTION, AS SHOWN.

82ND AVENUE (CASCADE HWY 213)/MARKET ROAD NO. 38 THE CENTERLINE OF SAID 82ND AVENUE WAS LOCATED BY HOLDING THE ABOVE REFERENCED CALCULATED QUARTER SECTION CORNER FOR SECTION 29, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN AND THE ABOVE REFERENCED INTERSECTION OF OTTY STREET (DOCUMENT NO. 2018-028626) AND 82ND AVENUE THE WEST RIGHT-OF-WAY LINE OF SAID 82ND AVENUE WAS LOCATED BY HOLDING RECORD DISTANCES OF 51.00 FEET AND 30.00 FEET PER SN 2017-109 AS SHOWN.

OTTY STREET (88TH AVENUE) (COUNTY RD. NO. 2447) THE CENTERLINE OF OTTY STREET WAS LOCATED BY HOLDING THE FOUND 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP INSCRIBED "HHPR INC" PER SN 2017-109 LOCATED AT THE INTERSECTION OF SAID CENTERLINE AND THE SAID WEST RIGHT OF WAY OF 82ND AVENUE, AND THE FOUND 5/8" IRON ROD WITH AN ALUMINUM CAP STAMPED "HHPR INC" PER SN 2017-109 AT THE INTERSECTION OF THE NORTHERLY EXTENSION OF THE EAST LINE OF DOCUMENT NO. 2017-011806 AND THE CENTERLINE OF OTTY STREET AS SHOWN.

THE SOUTH LINE OF OTTY STREET WAS LOCATED PARALLEL WITH AND 30.00 FEET SOUTHERLY, WHEN MEASURED AT RIGHT ANGLES, TO THE ABOVE DESCRIBED CENTERLINE.

SOUTH LINE OF LOT 47, PLAT OF "PARK VIEW ACRES", PLAT NO. 417 THE SOUTH LINE OF LOT 47, PLAT OF "PARK VIEW ACRES", WAS LOCATED BY HOLDING THE FOUND 5/8" IRON ROD AT THE SOUTHEAST CORNER OF SAID LOT 47 PER SN 2017-109 AND CALCULATED SOUTHEAST CORNER OF DOCUMENT NO. 2017-011806, CLACKAMAS COUNTY DEED RECORDS, AT THE EXTENSION OF 0.50 FEET FROM THE FOUND 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP STAMPED "HHPR INC" PER SN 2017-109 AS SHOWN.

EAST LINE OF DOCUMENT NO. 2017-011806 THE EAST LINE OF SAID DOCUMENT NO. 2017-011806 WAS LOCATED BY HOLDING THE ABOVE CALCULATED SOUTHEAST CORNER THEREOF AND THE FOUND 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP STAMPED "HHPR INC" AT THE NORTHEAST CORNER THEREOF.

OTTY STREET (DOCUMENT NO. 2018-028626) THE CENTERLINE OF OTTY STREET (DOCUMENT NO. 2018-028626) WAS LOCATED BY HOLDING FOUND MONUMENTS AND RECORD DATA PER SN 2017-109 AS SHOWN. THE RIGHT OF WAY LINES WERE LOCATED BY HOLDING RECORD DATA FROM DOCUMENT NO. 2018-028626 AS SHOWN.

DECLARATION:

KNOW ALL PEOPLE BY THESE PRESENTS THAT CLACKAMAS COUNTY DEVELOPMENT AGENCY, IS THE OWNER OF THE LAND REPRESENTED ON THE ANNEXED MAP DESCRIBED IN THE SURVEYOR'S CERTIFICATE AND AS SHOWN ON THE ANNEXED MAP, AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE, DOES HEREBY DECLARE THE MAP TO BE A TRUE AND CORRECT MAP OF THE PARTITION OF SAID PROPERTY AND THAT THEY HAVE CAUSED THIS PARTITION PLAT TO BE PREPARED AND THE PROPERTY PARTITIONED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 92 OF THE OREGON REVISED STATUTES, AND DO HEREBY DEDICATE ALL RIGHT-OF-WAY SHOWN HEREON TO THE PUBLIC, FOR PUBLIC USE, AND HEREBY GRANT ALL EASEMENTS FOR THE PURPOSES SHOWN HEREON.

DAN JOHNSON
DIRECTOR
CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

ACKNOWLEDGEMENT

STATE OF OREGON }
COUNTY OF CLACKAMAS } SS

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON _____, 2020, BY DAN JOHNSON, AS DIRECTOR OF CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT.

NOTARY PUBLIC SIGNATURE _____

NOTARY PUBLIC (_____) - OREGON

COMMISSION NO. _____

MY COMMISSION EXPIRES _____, 20____

REGISTERED PROFESSIONAL LAND SURVEYOR
Timothy E. Brown
OREGON
NOVEMBER 12, 2019
TIMOTHY E. BROWN
91314
RENEWS: 12-31-2021

Harper Houf Peterson Righellis Inc.
ENGINEERS • PLANNERS
LANDSCAPE ARCHITECTS • SURVEYORS
205 SE Spokane Street, Suite 200, Portland, OR 97202
phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

Exhibit C

Grantor: Clackamas County Development Agency 150 Beaver Creek Rd. Oregon City, OR 97045	State of Oregon
Grantee: Gustafson Real Estate LLC 2208 W. Baseline Ave. Lot 125 Apache Junction, AZ 85120	
After Recording Return to: Clackamas County Engineering 150 Beaver Creek Road Oregon City, OR 97045	
Send Tax Statements To: Gustafson Real Estate LLC 2208 W. Baseline Avenue, Lot 125 Apache Junction, AZ 85120	
	Authorized by Clackamas County Ordinance No. _____.

Bargain and Sale Deed

CLACKAMAS COUNTY DEVELOPMENT AGENCY, the Urban Renewal Agency of Clackamas County, Oregon, a corporate body politic, Grantor, does hereby grant, bargain, sell, and convey to Gustafson Real Estate LLC, Grantee, all of Grantor's right, title and interest in that certain real property situated in Clackamas County, Oregon, as more particularly described as Parcel 1 of Partition Plat No. 2021-XXX as recorded in Clackamas County Surveyor Records.

The true consideration for this conveyance is other good and valuable consideration.

Statutory Land Use Disclaimer: Before signing or accepting this instrument, the person transferring fee title should inquire about the person's rights, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010. This instrument does not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify that the unit of land being transferred is a lawfully established lot or parcel, as defined in ORS 92.010 or 215.010, to verify the approved uses of the lot or parcel, to determine any limits on lawsuits against farming or forest practices, as defined in ORS 30.930, and to inquire about the rights of neighboring property owners, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010.

Exhibit C

Dated this _____ day of _____, 2021.

Clackamas County Development Agency,
a corporate body politic

By: _____
Name: Dan Johnson, Director,
Clackamas County Department of Transportation and Development
Signed pursuant to Resolution No. _____

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument was acknowledged before me on _____, 2021,
by Dan Johnson, Director of the Clackamas County Department of Transportation and
Development.

Notary Public for Oregon

My Commission Expires: _____



August 5, 2021

Water Environment Services Board
 Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of an Amendment to the Conservation Easement Granted to Water Environment Services by the Athey Creek Christian Fellowship for the Church’s Accessible Parking Improvements Project.

Purpose/Outcomes	Approval of an amendment to a conservation easement granted to WES to allow for the Fellowship's proposed site improvement project to proceed, while also minimizing impacts to wetlands and water quality buffers on the site, and further enhancing water quality function through planting native vegetation.
Dollar Amount and Fiscal Impact	None
Funding Source	N/A
Duration	There is no termination date in the amended conservation easement granted to WES.
Previous Board Action/Review	Issues discussion on July 27, 2021
Counsel Review	The amended conservation easement was reviewed and approved by County Counsel on January 25, 2021
Strategic Plan Alignment	1) Streams within WES’ jurisdiction meet or exceed water quality standards. 2) Honor, Utilize, Promote and Invest in our Natural Resources.
Contact Person	Ron Wierenga, Environmental Services Manager, 503-742-4581
Contract No.	N/A

BACKGROUND:

The Athey Creek Christian Fellowship near West Linn is seeking approval to expand their parking area to provide better access for persons of limited mobility and families. The project will encroach into a conservation easement area previously granted to Water Environment Services for the wetlands and natural resource buffers on the property. The original easement was granted in 2007 as part of the development of the church property. The Fellowship is proposing to retain a portion of the wetlands in the conservation easement area, and to enhance wetlands and water quality function through planting the remaining easement and resource areas on the site. WES staff worked with Fellowship to limit the impacts to the existing easement area, and to propose actions to improve water quality function. In addition, the Fellowship has agreed to provide educational signage on wetlands and water quality, furthering WES’s watershed health education goals. All other necessary approvals from state and federal agencies with wetlands jurisdiction will be acquired by the applicant prior to construction.

RECOMMENDATION:

WES staff recommends the Board, acting as the governing body of Water Environment Services, approve the Approval of an amendment to a conservation easement granted to WES to allow for the Fellowship's proposed site improvement project to proceed, while also minimizing impacts to wetlands and water quality buffers on the site, and further enhancing water quality function through planting native vegetation.

Respectfully submitted,



Greg Geist (Jul 21, 2021 15:30 PDT)

Greg Geist
Director, Water Environment Services

Attachments: Amended and Restated Grant of Conservation Easement and Exhibits

After recording, return to:
Surface Water Management Agency of Clackamas County
150 Beaver Creek Rd, Suite 430
Oregon City, Oregon 97045

Amended and Restated Grant of Conservation Easement

WATER ENVIRONMENT SERVICES

KNOW ALL PERSONS BY THESE PRESENTS, that **Athey Creek Christian Fellowship**, the owner of the real property described herein ("Grantor"), on June 21, 2007 granted and conveyed to the **Surface Water Management Agency of Clackamas County** ("SWMACC") a conservation easement, which was then recorded as Clackamas County Official Record document 2007-076610 (the "Conservation Easement").

On June 28th, 2018, SWMACC assigned its interest in the Conservation Easement to **Water Environment Services** ("WES" or "Grantee"), which was recorded as Clackamas County Official Record Document **2018-041407**.

The Conservation Easement signed and recorded in 2007 and assigned in 2018 is hereby amended by replacing the Conservation Easement Exhibits as follows:

The Conservation Easement description document Exhibits "A", "B" & "C" are hereby replaced with the attached Exhibits "A" & "B".

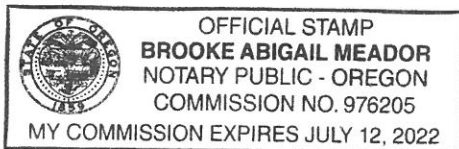
The drawings depicting the Conservation Easement on Exhibits "D" & "E" are hereby replaced with the attached Exhibits "C", "D" & "E".

The new Conservation Easement configuration will preserve a portion of the existing wetlands, and mitigation for loss of existing Conservation Easement area will enhance the water quality functions of the remaining Conservation Easement area.

All other aspects of the Conservation Easement remain in effect as written.

IN WITNESS WHEREOF, the undersigned have set their hands and seals:

GRANTOR



Representing **Athey Creek Christian Fellowship**

By: Thomas D Moore

Printed Name: Thomas D Moore

STATE OF OREGON)

)ss.

County of Clackamas)

This instrument was acknowledged before me on this 31st day of March, 2021 by Thomas Moore to be the free act and deed of said corporation/individual.

Brooke Abigail Mead

Notary Public for Oregon

My commission expires: July 12, 2022

GRANTEE

WATER ENVIRONMENT SERVICES

By: _____
Chair

Printed Name: _____

STATE OF OREGON)

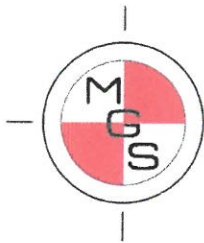
)ss.

County of Clackamas)

This instrument was acknowledged before me on this ____ day of _____, 202__ by
_____ to be the free act and deed of the Chair of Water Environment Services.

Notary Public for Oregon

My commission expires: _____



**MINISTER-GLAESER
SURVEYING INC.**

*Vancouver Office - 2200 E. Evergreen Blvd., Vancouver, Washington 98601
(360) 694-3313 (360) 694-3410 FAX*

12/8/2020

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

DECEMBER 8, 2020

EXHIBIT "A "

ADJUSTED CONSERVATION EASEMENT

OREGON
JUNE 30, 1997
DANIEL A. RENTON
2830

Expires 12-31-2020

A tract of land located in a portion of the James Athey Donation Land Claim Number 59, in a portion of the Southeast quarter of Section 29 and the Southwest quarter of Section 28, Township 2 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, more particularly described as follows:

COMMENCING at the Northeast corner of the Athey Creek Christian Fellowship parcel as described in Document Number 2014-007727, records of Clackamas County, and shown in Survey Number "SN2006-035", said point also being on the Southerly Right-of-Way line of "Ek Road";

Thence North 60°58'48" West, along said Southerly Right-of-Way line, 472.36 feet and the **TRUE POINT OF BEGINNING:**

Thence continuing along said Southerly Right-of-Way line, North 60°58'48" West, 187.80 feet to an angle point;

Thence continuing along said Southerly Right-of-Way line, North 89°50'15" West, 220.86 feet;

Thence leaving said Southerly Right-of-Way line, South 45°04'25" East, 177.78 feet;

Thence North 62°22'29" East, 122.88 feet;

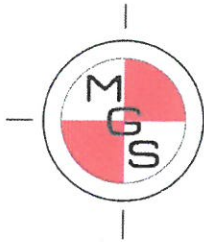
Thence North 77°40'39" East, 32.49 feet;

Thence South 84°12'23" East, 23.21 feet;

Thence South 61°28'08" East, 96.96 feet;

Thence North 29°02'30" East, 21.23 feet and the **TRUE POINT OF BEGINNING.**

CONTAINING 22,797 square feet of land, more or less.



**MINISTER-GLAESER
SURVEYING INC.**

*Vancouver Office - 2200 E. Evergreen Blvd., Vancouver, Washington 98601
(360) 694-3313 (360) 694-3410 FAX*

12/8/2020

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

DECEMBER 8, 2020

EXHIBIT " B "

RETAINED CONSERVATION EASEMENT

OREGON
JUNE 30, 1997
DANIEL A. RENTON
2830

Expires 12-31-2020

A tract of land located in a portion of the James Athey Donation Land Claim Number 59, in a portion of the Southwest Quarter of Section 28, Township 2 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, more particularly described as follows:

BEGINNING at the Southeast corner of the Athey Creek Christian Fellowship parcel as described in Document Number 2014-007727, records of Clackamas County, said point also shown in survey number "SN2006-035", records of said county;

Thence North 89°14'01" West, along the South line of said "Athey Creek Christian Fellowship" parcel, for a distance of 114.97 feet;

Thence leaving said South line, North 65°57'09" West, for a distance of 31.36 feet;

Thence North 13°32'01" East, for a distance of 52.95 feet;

Thence North 06°35'05" West, for a distance of 42.59 feet;

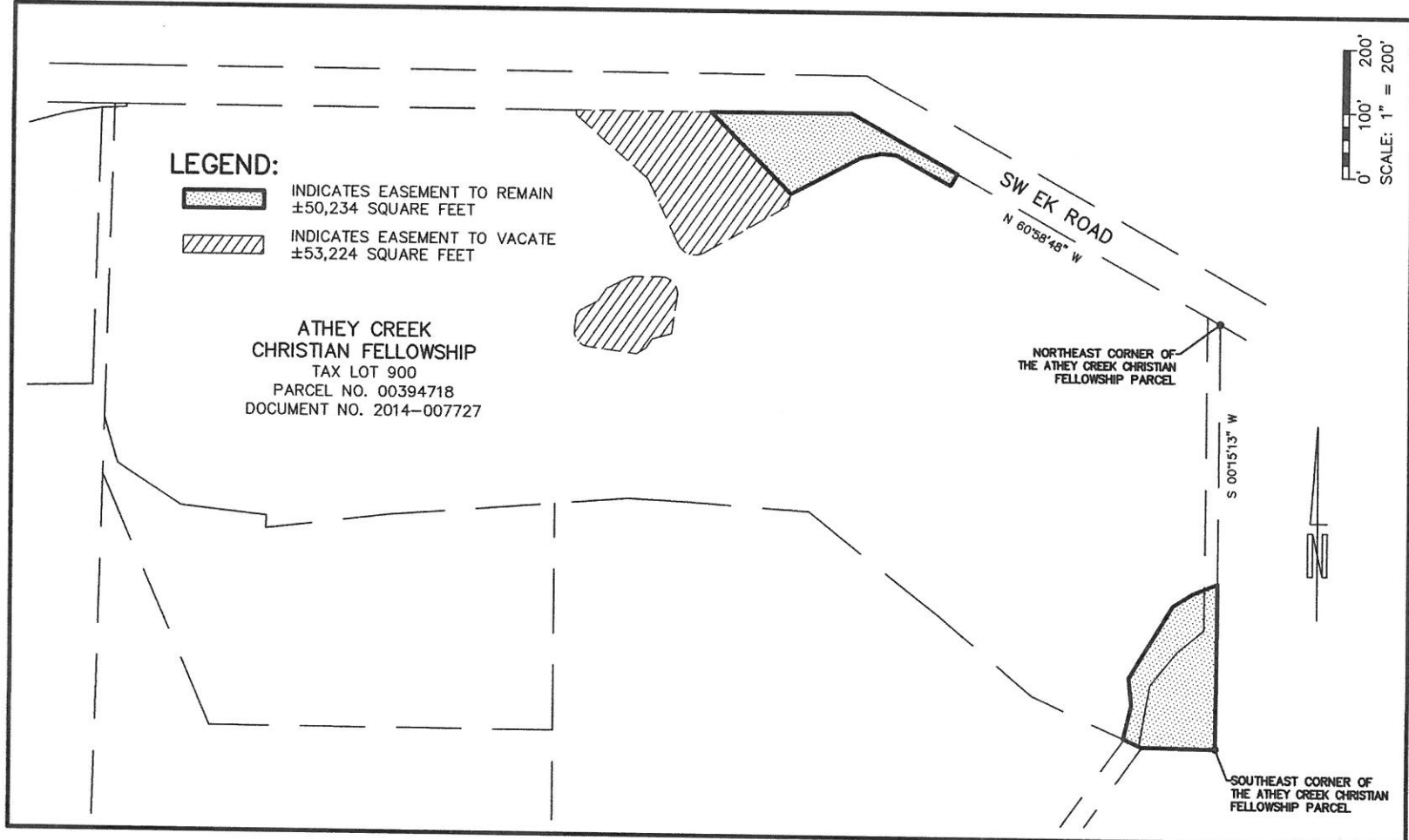
Thence North 31°11'39" East, for a distance of 131.92 feet;

Thence North 57°01'52" East, for a distance of 36.16 feet;



Thence North 67°50'06" East, for a distance of 41.64 feet to the East line of said "Athey Creek Christian Fellowship" parcel;

Thence South 00°15'13" West, along said East line, for a distance of 256.35 feet to the **POINT OF BEGINNING**.

CONTAINING: 27,437 square feet of land, more or less.



LEGEND:

-  INDICATES EASEMENT TO REMAIN
±50,234 SQUARE FEET
-  INDICATES EASEMENT TO VACATE
±53,224 SQUARE FEET

ATHEY CREEK
CHRISTIAN FELLOWSHIP
TAX LOT 900
PARCEL NO. 00394718
DOCUMENT NO. 2014-007727

SW EK ROAD
 $N 60^{\circ}38'48'' W$

NORTHEAST CORNER OF
THE ATHEY CREEK CHRISTIAN
FELLOWSHIP PARCEL

S 00°15'13" W

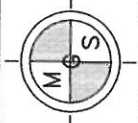
SOUTHEAST CORNER OF
THE ATHEY CREEK CHRISTIAN
FELLOWSHIP PARCEL

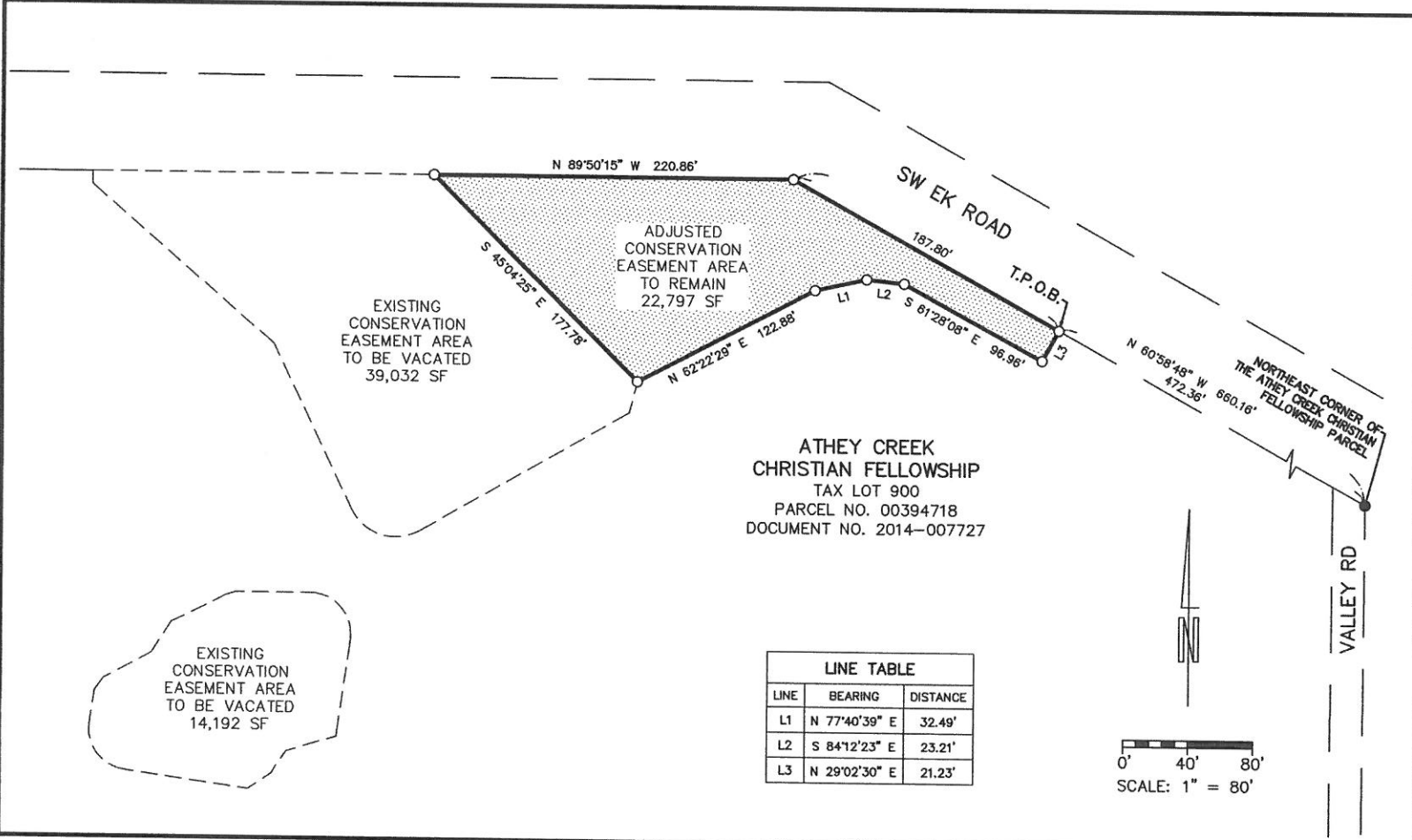


SCALE: 1"=200'
JOB NO. 20-448
DATE: 12/8/2020
DWG FILE: 20448L1
DRAWN BY: RDH

EXHIBIT "C"
CONSERVATION EASEMENT

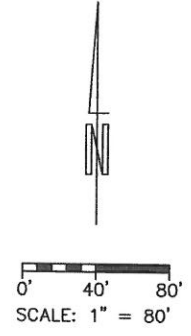
PREPARED BY:
**MINISTER-GLAESER
SURVEYING INC.**
2200 E. EVERGREEN BLVD.
VANCOUVER, WA 98661
(360) 694-3313





ATHEY CREEK
CHRISTIAN FELLOWSHIP
TAX LOT 900
PARCEL NO. 00394718
DOCUMENT NO. 2014-007727

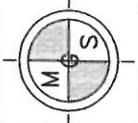
LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 77°40'39" E	32.49'
L2	S 84°12'23" E	23.21'
L3	N 29°02'30" E	21.23'

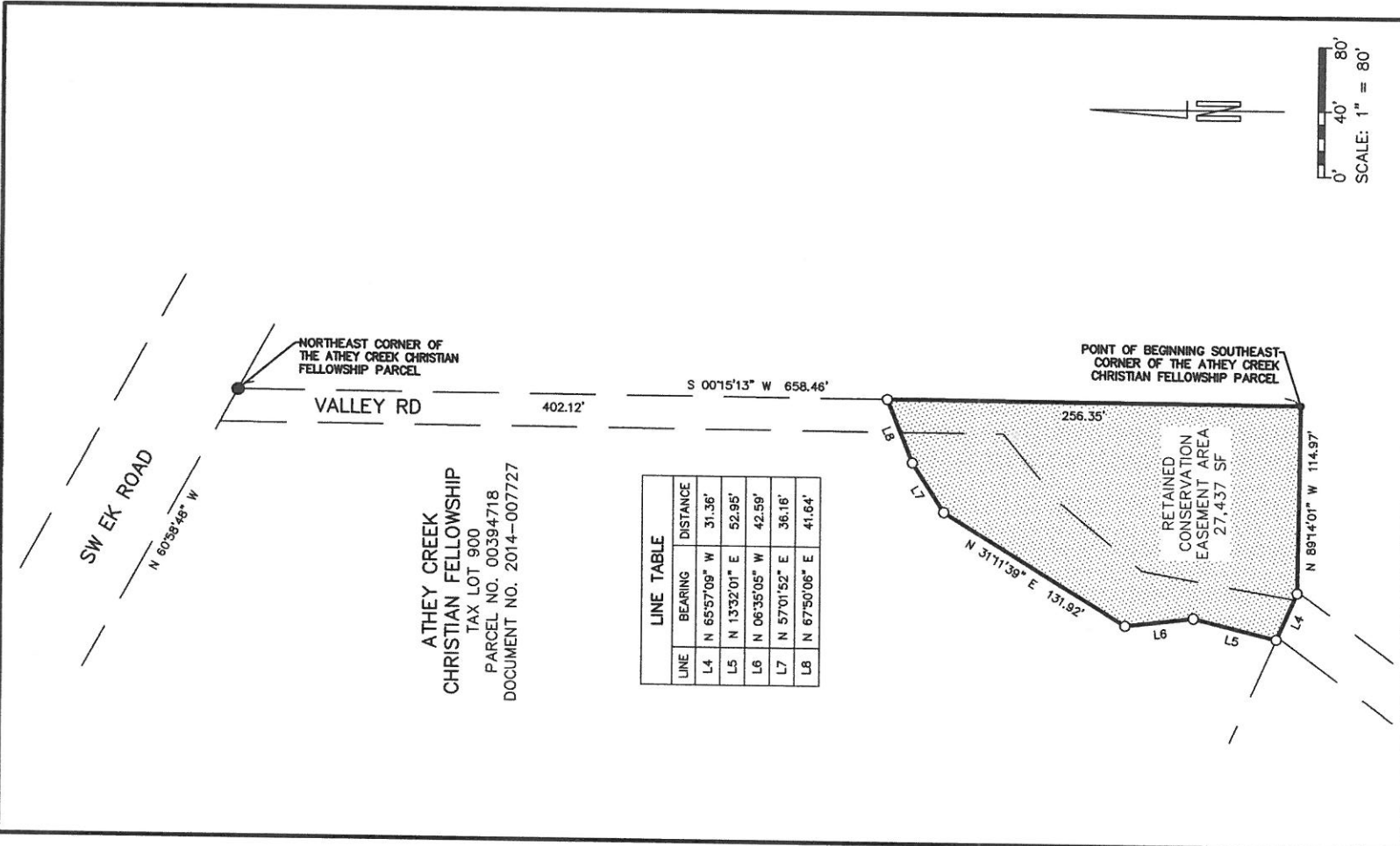


SCALE: 1" = 80'
JOB NO. 20-448
DATE: 12/8/2020
DWG FILE: 20448L1
DRAWN BY: RDH

EXHIBIT "D"
CONSERVATION EASEMENT

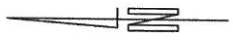
PREPARED BY:
**MINISTER-GLAESER
SURVEYING INC.**
2200 E. EVERGREEN BLVD.
VANCOUVER, WA 98661
(360) 894-3313





ATHEY CREEK
 CHRISTIAN FELLOWSHIP
 TAX LOT 900
 PARCEL NO. 00394718
 DOCUMENT NO. 2014-007727

LINE TABLE		
LINE	BEARING	DISTANCE
L4	N 65°57'09" W	31.36'
L5	N 13°32'01" E	52.95'
L6	N 06°35'05" W	42.59'
L7	N 57°01'52" E	36.16'
L8	N 67°50'06" E	41.64'



0' 40' 80'
 SCALE: 1" = 80'

SCALE: 1"=80'
 JOB NO. 20-448
 DATE: 12/8/2020
 DWG FILE: 20448L1
 DRAWN BY: RDH

EXHIBIT "E"
CONSERVATION EASEMENT

PREPARED BY:
MINISTER-GLAESER
SURVEYING INC.
 2200 E. EVERGREEN BLVD.
 VANCOUVER, WA 98661
 (360) 694-3313

