



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: _____



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

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August 2, 2021

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Sarah Foreman
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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